1893
(L R)

File No 71-93.
Serial No 1-10

Sub:- Memorial presented to H.H Maharaj of Mysore by Mr. C. Raja Rau, against the decision of the Chief court in a case regarding a Vacant Site

G. R. S. IX-5]

Previous references.

1893.

~~191~~ .

(L.R.)

File No. 71-93

Serial Nos. 1-10

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—10

Major **Part B** for Sept 94

SUBJECT.

Memorial presented to H. H the maharaja of Mysore by Mr. G. Raja Rao against the decision of the Chief Court in a case re a vacant site.

W D 88—GPB—50,000—24-7-16

Indexed

20

Rough Draft

Submitted

An appeal does lie to the Maharajah from a decision of the Chief Court and nothing in the Chief Court's Regn. can be held to take away from the Sovereign his prerogative as the highest tribunal in the land.

We however have no proper organization ~~this~~ with which both this prerogative can be exercised.

~~Sanctum Sanctorum~~

20/4/24.

Memo Submitted to H.H. the Maharajah of Mysore

1) The Dy. Comr. of Mysore, with his letter No. 1138 D. 17 April 1894, Submits at the instance of the Mysore Municipality a representation which is in the nature of an appeal to H.H. the Maharajah as the final Appellate authority agt. the Judgt. of the Chief Court in Civil 2d. Appeal No. 20 of 1893.

2). The Municipality, like any private individual, have this right of appeal, Though we have at present no prescribed method for dealing with an appeal of this kind. In the absence of any such special method, H.H. in his discretion can of Course pass any order it pleases him. But having regard to the high importance of maintaining public confidence in our administration, it is essential that any interference with the decision of the Chief Court should be ordered only after the fullest investigation & Consideration and in the most formal manner possible. If H.H. upon the perusal of the papers

herewith I submit that thinks that grounds for further investigation exists, I would strongly recommend the appointment of a Competent Committee of Judges (including the Judges of the Ch. Ct). to hear the parties and to report to H.H. the decision they wd. recommend H.H. to pass — Some time ago I submitted certain proposals (which originated from Mr Chentsal Rao) & were concurred in by Dr Thornton (Chittoor) for laying down how, for the hearing of appeals from the Chief Ct (such as the present), Committees of Judges (like the ~~two~~ shd be Constituted from our Chief Ct. Judges, Councillors & Special jurists (lawyers & judges) ~~from~~ selected either from here or without the State, & how these Committees shd, once in six months or a year, hear such appeals, and recommend what H.H's decision on them shd be.

These proposals were then reserved for further Consideration, & in the meantime the present appeal has come up & has to be disposed of —

3) Mr. Chentsal Rao recommends that ~~His~~ Highness Shd decline "to interfere with the decision "of the Chief Court". This is what we have said in other appeals, i.e. without waiving the jurisdiction, H. H. ~~has~~ decided that no grounds existed for interference for the exercise of H. Hs. powers as the highest appellate Authority: H. He. cannot of Course decline to interfere when he thinks the Chief Ct's decision prima facie Calls for interference —

4) The question then arises, whether in the particular Case now before us, there are prima facie grounds calling for an

interference with the Chief Ct decision —

5). I have very carefully considered all the facts of the Case and my own personal opinion is that the Chief Court's decision was wrong & that he reversed — with this opinion on my part I am ~~[illegible]~~ unable to recommend that H.M. should decline interference ——

6). The Case is a <u>test</u> Case & one of Considerable ~~into~~ public importance. We must not please allow ~~[illegible]~~ our Zeal for public interests ~~[illegible]~~ to lead ~~the extent of tolerating any~~ to any Violation of Vested private right — But the question is Whether the Plff — in this Case had really any 'right properly so Called' ? —

7). I think that the Chief Cs are wrong in supposing private ownership from the "~~Agraharam~~" terms of the "Agraharam" grant. The land may be included in such a grant without any individual House owner having a private right to it. The Agraharam grant ~~of the Ad days~~ is merely Evidence of ~~Hereos~~ the Setting apart of a particular piece of land for "Agraharam" purposes, in the same way as Govt now Sets apart Village & Town Sites. The "Agraharam" Grant generally Contemplates the exclusion of Others Than Brahmins from the Site granted for the Agraharam ~~& temples~~ and with this object the whole body of the Agraharamdars are Vested ~~with~~ with a right to use the Agraharam land for their Common purposes - ~~#~~ The right of an

house owner
individual Agraharamdar, is
strictly confined to what
he has been given — The
distinction is the same as
exists in the case of ~~the right~~
~~a Village site and~~ a "Village
Site", and individual bits
of ~~land~~ private land within
such site — No individual
can claim any part of a
Village site or an Agraharam
site, except under a Specific
grant in his own individual
favor —

5. The functions & rights belonging
to the entire body of Agraharamdars
have, ~~partly~~ partly owing to Custom
& partly owing to Municipal law
devolved upon the Govt. or Municipalities in the
majority of Cases — Such devolution
is the necessary result of the
Changed conditions of the time
in which we live, and it causes
no hardship to the ~~indo~~ Agraharam

bodies who by their ~~conduct~~
Non exercise of their rights have
practically surrendered
them to the Govt for which
~~they got them originally~~
they originally got them.

9 8/. The Munc. Regn III of
1888 Came into force in
the Mysore City on 1st
Dece 1888 — The Municipal
Board of Mysore became thereupon
a body entitled to Sue & liable to
be Sued — Till then the Municipal
Board had no ~~legal~~ Separate legal
existence, but was merely the
executive appointed by the Govt.
to do certain Things which
the Govt. could do — All lands
which Vested in the Govt ~~till~~
1 Dec '88 may be regarded
to Vest in the Municipal
Board after that date;
but Construing S. 7, ~~to~~ it is

not seem perhaps to affirm that such Vesting did take place in Mysore where acts XIV of 1856 and XVIII of 1864 were not previously in force. If there was in point of law no such Vesting in the Board on 1 Dec 1888, then the Board are merely in the position of an Executive appointed by Govt. just in the same way as the Board was before 1st Dec 1888 — Under this view all land which is not the private property of individuals will Vest in the Govt.,* and the Board will be merely an Agent of the Govt. — These remarks are made with reference to the observations of the Chief Ct as regards the title of the Municipality to the land in question not being proved.

* Vide Land Rev Code —

10½) The onus of proof of title was clearly upon the Plff, ~~and it has~~ and should not have been thrown upon the Defts Municipality.

16) Adverse possession on the part of the Plff has been too readily presumed from the facts in Evidence. The acts proved were clearly permissive ones, and at best could only establish certain Easements, and could never be regarded as Creating a title in the Plff when one did not exist by ~~grant~~ express grant.

12½) Such Express grant the Plff utterly failed to prove as regards the land in Question.

13-12) The proved fact that the Govt made the road, without the Consent of individual Agrahar house owners, shows that the whole land in front of Agrahar houses

was regarded as [illegible]

The [illegible] of individual house owners appl^n for permission to build upon the 14' strip before their houses & the refusal of such permission, may, in refce to the record of such appl^n, shew that no right to the land was claimed by the applicants &

Instrument agent misp^n upon this point - it was impossible for any t. to assume the Contrary

at any rate it was in evidence that individual House owners selling their houses to others excluded the Strip from the Sales as property which did not belong to them.

13/. The Judt directing the Compulsory acquisition of the land was wrong. The Mun^l. Bd have been given the Option of surrendering the land in dispute - The Mun^l justly Complain of the Compulsion to buy, for it really means that the Mun^l

must similarly purchase from every
house owner in the Street.

15 14) The suit was ~~factually~~ barred under S. 238
17 of the Mun! Regn if it was not brought within
(Cf. Paras 15, 16 here) 3 months of the cause of action. But Mahomed
Allis taking possession of the land was ~~in Aug 90~~,
apparently in 1890 & the suit was not brought till 1892.
18) ~~The~~ From the above ~~case~~ it will
19
be seen that the defence was
not what it Shd have been,
but upon the defence such as
it was, the decision shd have
been agt the Plff.

V. Sheshadri Iyer

8 Augt 1894

16 15) ~~16~~ I wd add that the temple
projection showed clear marks of
being an Encroachment, ~~but it~~
& was set back. The Govt paid
some money for this as an act
of grace, because it was a temple.

17 ~~16~~ The land in question is not
required for any Special purpose,
other than ~~beyond~~ purposes of Conservancy
& Ventilation. These Objects
the Mun! Com Enforce without
actually buying the land - S. 116
of the Mun! Regn, if ~~it is~~

liberally Construed gives them
all necessary powers, under
this S. the Mun'l. Can prevent
any building Coming beyond
the general line of the buildings
in the Street and they have always the power to
prevent the deposit of
debris or Sewage on it - The
Mun'l. need only have ~~obtained~~
Enforced these powers and
not acquired the lands as the
decree now Compels them to do

~~The shifting of the drain was~~
necessary to Carry away Con-
veniently the Sewage from
the houses. If Such shifting
was objected to, the Mun'l
Co. have required the
Houseowners to dispose of
the Sewage in Some other
way than ~~discharging~~ directly
~~into~~ to the public Street
or allowing it to Soak into
the Ground - These questions
Sh'd have been Considered before
the Direction for Compulsory acquisition
~~was Confirmed~~

for compulsory acquisition a Special Law (the Land Acqn Act) exists. It is not for a Civil Court to direct a Dept to buy the land the in dispute. If the Ct finds that the Dept has taken possession of what belongs to the Plff the decree shd be for the Plff. & recover possession of the land with damages if any. ~~The Dept should be declared~~

P/S/94

18 17) To illustrate the absurdity of the Court decision for Compulsory purchase, I may say that if the municipality has complied with the decree, they are now entitled to the absolute proprietorship of the land & the exclusion of the

land which Plff had (including his right of way over it) the Miner Law would strict law prevents the Plff from getting foot upon it. — Of Course the Miner will not resort to such a Vindictive Course of Action, but but the Court shd have ~~Considered~~ Confined itself to the issue before it and granted ~~the~~ only the Redress which naturally wd result from its finding on the issue of title raised

8/8/94.

Memorandum

Submitted to His Highness the Maharaja of Mysore

On 15 April 1894, the Public Prosr of Kistagiri submits, on behalf of the President of the Mysore Municipality, an appeal to His Highness the Maharaja against

The Deputy Commissioner of Mysore, with his letter No. 1138 dated 17th April 1894, submits at the instance of the Mysore Municipality a representation which is in the nature of an appeal to His Highness the Maharaja as the final appellate authority against the judgment of the Chief Court in Civil 2d ...

2 The Municipality, like any private individual, have this right of appeal, though we have at present no prescribed method for dealing with an appeal of this kind. In the absence of any such special method, His Highness in his discretion can of course pass any order it pleases him. But having regard to the high importance of

maintaining public confidence in our administration of justice, it is essential that any interference with the decision of the Chief Court should be ~~ordered~~ only after the fullest investigation and consideration and in the most formal manner possible. If His Highness, upon the perusal of the papers herewith submitted, thinks that grounds for further investigation exist, I would strongly

recommend the appoint-
ment of a competent
Committee of Judges —
(including the Judges
of the Chief Court) to hear
the parties and to re-
-port to His Highness
the decision they would
recommend His High-
-ness to pass. Some two years
~~ago~~ ago, I submitted
certain proposals —
(which originated from
Mr. Cheetkal Rao and
~~were concurred in~~
by Mr. Thamba Chettiar)
for laying down how,
for the hearing of ap-
-peals from the Chief

Court (such as the pre-
-sent), committees of
Judges should be con-
-stituted from our
Chief Court Judges, Coun-
-cillors and special jurists
(lawyers or Judges) select-
-ed either within or
without the State, and
how these Committees
should, once in six
months or a year, hear
such appeals, and
recommend what His
Highness' decision on
them should be. These
proposals were then

consideration, and in the meantime the present appeal has come up and has to be disposed of

3. M. Chentsal Rao recommends that His Highness should decline "to interfere with the "decision of the Chief "Court". This is what we have done in other appeals, i.e., without waiving the jurisdiction, His Highness decided that no grounds existed for interference ~~from this~~

or any exercise of His Highness' powers as the highest appellate authority: His Highness cannot of course decline to interfere when he thinks the Chief Court's decision prima facie calls for interference:

4. The question thus arises, whether in the particular case now before us, there are prima facie grounds calling for an ~~inter~~ examination of the justice & Equity of ~~former with~~ the Chief Court's decision.

5. I have very carefully considered all

the facts of the case and my own personal opinion is that the Chief Courts' decision is wrong. ~~and should be reversed~~. With this opinion on my part, I am of course unable to recommend that His Highness should decline interference.

6. The case is a leak case and one of considerable public importance. We must not of course allow our zeal for public interests to lead to

the defence was hardly conducted, that important facts were not before the courts and that

any violation of vested private right. But the question is whether the Plaintiff in this case had really any right properly so called?

7. I think that the Chief Court are wrong in inferring private ownership from the terms of the "Agraharam" grant. The land may be included in such a grant without any individual house owner having a private right to it. The "Agraharam" grant is merely evidence

Note. Since writing this minute I have seen Cop. of the Sthree Sasanam Rep. & after seeing it I w. withdraw my remarks in paras 7 & 8 —

The Sasanam is no grant at all. It is antedated & Contains an incorrect narration. The Agrahar houses were granted in Kaneri Bank & were granted some years afterwards 1827 & The houses were removed & rebuilt here. There is absolutely no proof of what land was given for the new houses. The Sasanam gives no boundaries but merely indicates the location of the Agrahar — The Courts Err in thinking that the particulars given for the identification of the locality were meant as boundaries. A glance at the map will show this beyond doubt — Agrahar Site generally includes only houses & Enclosed Space behind. The original Agrahar in Kaneri Bank was no exception to this — The new Agrahar & left of "Horse Stables" was no exception to this. The location of Vamana Murthi Stone has not been proved — Surely Singambo Agrahar did not extend to Devambo Agrahar houses. The Stables intervened before & now Jagannathan's intervene.

of the setting apart of
a particular piece
of land for Agra-
-haram" purposes, in
the same way as —
Government now sets
apart Village and Town
Sites. The "Agraharam
grant generally Contem-
-plates the exclusion
of others than Brah-
-mins from the Site
granted for the Agra-
-haram, and with this
object the whole body
of the Agraharam-
-dars are vested with
a right to use the

Agrahari land for their common purposes. The right of an individual Agraharam house owner is strictly confined to what he has been given. The distinction is the same as exists in the case of a Village Site", and individual bits of private land within such site. No individual can claim any part of a Village Site or an Agraharam site, except under a specific grant in

The Real Grant was dated 27 Sept. 1821, was on paper and was called "Sopanaparampara Kramana Gata" "Grahanadhikara Bhuswamya" "Dana Sadhana" on Karnam Bank & It gave a house site & a Vritti to Each individual. When the houses were removed to Mysore no new grant was given. The gift of houses & lands originally given was published for the information of parties in the Stone Sasanam.. The presumption is that. There is nothing whatever to show that anything more than the house site, in its new location, was granted. The presumption is that nothing more was granted & The Plff had to prove if more had been granted as claimed by him: this he failed to do

See Vamsa Ratnakara, Stock p.p. 306 & 307 - It says that the gift was in 1744 S.E. Visvavasu Margasira S. 2nd. Agrahara & Established at Mysore 1748 Parthiva Vyasakha B. 6 Sunday. That new Nanjundeswara temple was built at Mysore & Vastish given to do - Prasanna Nanjundeswara The Vritti Grant in Samvat yr 1743 was done in Chandra yr 1 Vritti was in

5/9/94. hy.

his own individual

favor

8. The functions

and rights belonging

to the entire body of

Agraharandaru —

have, partly owing

to custom and partly

owing to Municipal

law devolved upon the

Government or Munici-

palities in the majority

of cases. Such devolu-

tion is the necessary

result of the Changed

conditions of the time

in which we live, and

it causes no hardship

to the Agraharam bodies who by non exercise of their rights have practically surrendered them to the Government from which they originally got them.

9. The Municipal Regulation III of 1888 came into force in the Mysore city only on 1st December 1888. The Municipal Board of Mysore became thereupon a body entitled to sue and liable to be sued till then the

Municipal Board had no separate legal existence, but was merely the executive appointed by the Govern-ment to do certain things which the Govern-ment could do. All lands which vested in the Government 1st December 1888 may be regarded to vest in the Municipal Board after that date, but construing Section 7, it is not easy per-haps to affirm that such Vesting did take

place in Mysore where Acts XIV of 1856 and XVIII of 1864 were not previously in force. If there was in point of law no such Vesting in the Board on 1st December 1888, then the Board are merely in the position of an Executive appointed by Government just in the same way as was the Board before 1st December 1888. Under this view, all land which is not the private property of individuals will vest

in the Government,

and the Board will be

merely an agent of

the Government. These

remarks are made with

reference to the obser-

vation of the Chief Court

as regards the title of

the Municipality to the

land in question not

being proved.

"Vide Land Revenue Code

The onus was wrongly thrown upon the municipality. Whether this be so or not, the Govt. is not bound by the decree as the municipality is in the Suit. The Govt was not a party to the Suit.

10. The onus of

proof of title was clearly

upon the Plaintiff, and

should not have been

thrown upon the Defend-

ant Municipality

11. Adverse possession

on the part of the Plaintiff has been too readily presumed from the facts in evidence. The acts proved were clearly permissive ones; and at best could only establish certain easements, and could never be regarded as creating a title in the Plaintiff when one did not exist by express grant

12. Such express grant the Plaintiff utterly failed to prove as regards the land in question.

See marginal notes above ~~supra~~ aft paras 7 & 8.

13. The proved fact that the Government made the road, without the consent of the individual Agrahar house owners, shews that the whole land in front of Agrahar houses was regarded as public property. The application of individual house owners for permission to build upon the 14 feet strip before their houses and the refusal of such permission may, on reference to the record

we must try & get this record. M

of such application, shew that no right to the land was claimed by the applicants, and without exact information upon this point it was impossible for any Court to assume the contrary. At any rate, it was in evidence that individual house owners selling their houses to others excluded the strip from the sales as property which did not belong to them & this

important fact did not receive the attention it deserved.

14. The judgment directing the compulsory

acquisition of the land was wrong. The Municipality should have been given the option of surrendering the land in dispute. The Municipality justly complain of the compul-sion to buy, for it really means that the Municipality must similarly purchase from every house-owner in the street

15. The suit was barred under Sections 238 and 17 of the Munici-pal Regulation if it

was not brought with-

in 3 months of the cause

of action. Mr Mahomad

Allis taking possession

of the land was appa-

-rently in 1890 and the

suit was not brought

till 1892.

16. I would add

that the temple projec-

-tion shewed clear marks

of being an encroach-

-ment and was set back.

The Government paid

some money for this as

an act of grace, because

it was a temple.

17. The land on

The record shd be sent for to ascertain this point regarding limitation.

2 thinks the gift included 20 houses & Parkinson Street. Not even the whole line of houses or even the houses opposite. What was it included in the Agraharam can only be determined — This shd be done & a plan prepared — It may then be found that the temple was then outside the Agraharam — . The exact limits of the Agraharam were not what was understood made clear in the Court Proceedings

question is not required for any special purpose, other than purposes of conservancy and ventilation. These objects the Municipality can enforce without actually buying the land. Section 116 of the Municipal Regulation, ~~if liberally construed~~, gives them all necessary powers. Under this section, the Municipality can prevent any building coming beyond the general line of the buildings in the street

and they have always the general power to prevent the deposit of debris or sewage on it. The Municipality need only have enforced these powers and not ac-quired the lands as the decree now compels them to do. The shifting of the drain was necessary to carry away conve-niently the sewage from the houses. If such shifting was objected to, the Municipality could have required the House owners to dispose

of the sewage in some other way than discharging it to the public street or allowing it to soak into the ground These questions should have been considered before the direction for compulsory acquisition. For compulsory acquisition a special law (the Land Acquisition Act) exists. It is not for a Civil Court to direct a Defendant to buy the land in dispute If the Court finds that the Defendant

has taken possession of what belongs to the Plaintiff, the decree should be for the Plaintiff to recover possession of the land with damages, if any.

18. To illustrate the absurdity of the Court decision for compulsory purchase, I may say that as the Municipality has complied with the decree, they are now entitled to absolute proprietorship of the land to the exclusion of the Plaintiff. As all

rights in or over the
land which Plaintiff
had (meaning no
right of way over it)
the Municipality can
in strict law prevent
the Plaintiff from setting
foot upon it. Of course
the Municipality will
not resort to such a
vindictive course of
action, but the Court
should have confined
itself to the issue before
it and granted only
the redress which
naturally would re-
sult from its finding

on the issue of title,

raised

19 From the above

it will be seen that

the defence was not

what it should have

been, but upon the

defence such as it was

the decision should have

been against the Plain

tiff.

8/8/94

A / S. 1743 – Vishu – Aswija S. 1 – Thursday –

Lakshmi Vilas . Devarajammanu

Lakshmi Vilasa Devamba Agrahara.

Right of Horse stable – 21 houses built of stone stand / Established Agrahara. / 4 Vamana Murti in stone stand / temple N.E. / – Graha with Sopanakara. Vritti given. Temple – Prasanna Ranganatha. (separate description)

B / Same date.

Kristna Vilasa Lingarajammanu.

K^n. Lingamba Agrahara.

Left of Horse Stable.

20 houses opposite Devamba Agrahara.

& Pankala Murti . Hayagriva

C Same date.

Ramavilas Chelvarajammanu.

Chelvamba Agrahara.

Right of Horse stable.

20 houses. Akobala Murti.

Lakshmi Narasimha.

B / 1 Same date.

Lingarajammanu ..... & Sankal Ramanujar

Villages in attikuppe { Medur, Kamanayakanhalli, Chikkahalli, Settihalli }

27 Sept 1821. Sopanakarapa karana Graha Sahita Bhuswamy

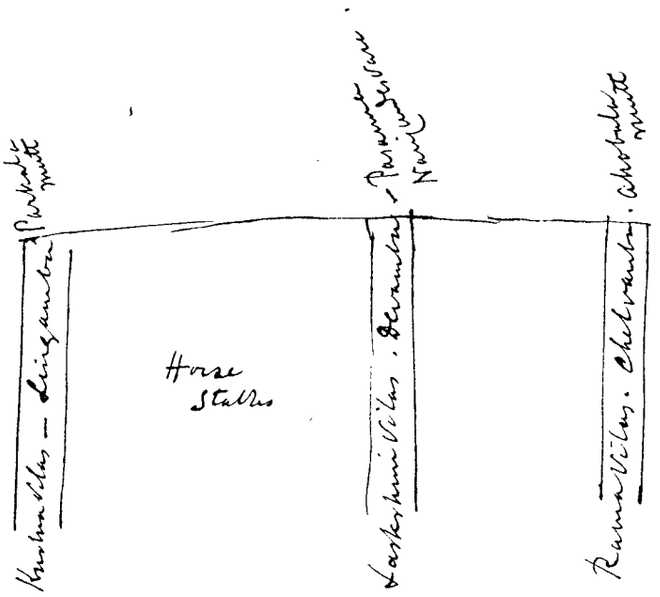
Dana Sasana –

(Having made Near Chandragiri – in Kanara bank. Lingamamba Agrahara – No of Vrittis 20 – Hayagriva Vritti 1 –

— A —
Contains
further
details.

Temple Visits
Brahmins — 21/22 — Each 36 pagodas —

for the temple in addn to its Visits
Total of 393 Pagodas 5 Hons fixed
and Sanad issued to Mysore Amildr —
to pay —



These agrahara ~~origin~~ established in 1821
on Kaveri Bank ~~of~~ near Chandgal —
After a few years removed to Mysore
& Established W. of fort on either Side of Horse Stalls.
When?
It is clear that the Stone Sasanams are all antedated
The Sasanam contain no boundaries but only indicate locality
The Stones Sasanam position not proved.
& D.P.W.
Ask the D.C. to send the Atlas map
of the Mysore City.

M.

Mysore Dist
Copy to Mary
at 3 pm
31/8

Memo.

Mysore Mun.ty.
vs
Narasimhachar

1. This file of Papers relating to an appeal of the Maharaja, by the Mysore Municipality and the Pradhan of the Chief Ct. has to be dealt with. Some way.

2. I have nothing to add to my remarks already recorded, but I am not sure ~~how~~ how we shd proceed under the present Conditions of the Admn.

3. ~~Sir~~ The file is circulated & among Councillors for decision in Council in due Course.

29.7.25

Have read this
before - a very
important question
is involved and
very considerable
we will be
before we
a short
Councillors
record
Sir Chief
forward
before
Mysore
Mysore

Memo.

The file relating to the proposed appeal agst the C/Mtó decision has been circulated to the Councillors.

The 2nd Councillor requests that the papers may be printed & circulated. & that if not printed there may be sufficient time

reserving my views, as to
the merits of this case as
it was decided by me; but
as the question, as to what
had best be done to
avoid of appeals being heard
from the decisions of the
Chief. I have already stated that,
Hindu Constitution, the Sovereign
individually has no power
interfere with Civil decisions.
The Sovereign in Council, like
the Privy Council, must be
specially constituted and vested
with powers similar to those
contained in Chapter XLV
of the Code of Civil Procedure
The Chief has himself
case already put on record
how this question was mooted
some time ago. A. Thornhill 1878-95
Further remarks I reserve
on the matter is called
because not before Council as
discussion. AH 1918

I have very carefully read the records of this case and am not prepared to re-commend the re-opening of ~~the case~~ it.

Here are these salient facts in the case in favour of the OPs

(1). The laying down of the ~~unauthorised~~ drain beyond the ground now in dispute

(2). The making of the floor with concrete and the using of it by the OPs as his own property.

(3). The appropriation of land up to the margin of the drain by the Parkali Math and the Temple building in the same line.

These facts are sufficient to show, in my opinion, that, apart from there producing a conscousness of title in the OPs as pointed out by the learned

Judge Mr Ramachandra, the D&C
surely permitted the exercise of
such acts of ownership by the
owners of such sites. I can see no
difference between the erection of a
such land and the making of a concrete
terrace of it for house holdings.
Both indicate such exclusive uses
of the land that I am slow to heed
the arguments based upon grounds
of sufferance and permission.
In addition to what Mr Ramachandra
has stated I would observe that the
laying down of the Wesapasa drain
and the appropriation of the margin
between it and the houses by the owners would
imply a tacit cessation of the
communal right theretofore vested
in the whole body of agraharamdars
(whose place the municipality
is said to have taken after the creation
of that body) and the beginning
of individual rights. On the
whole the case of the D&C is such
that any court of justice would
view with indulgence and the

judgement is on the whole equitable

I would decline to interfere in this case.

Regarding the establishment of a Judicial Committee of Councillors to advise the Sovereign in dealing with such appeals I must again ask for the correspondence which took place when the Privy Council Regulation was passed. I asked for them already but they have not been sent. (This file read not however sent to me.

William Lamington.

30th October 95

I have now read this file. and there is nothing to vindicate the intention of the late MahaRaja as to whether the Privy Council was intended as the final and sole delegated Sovereign and the supreme arbiter of the subjects rights and duties of his subjects, or whether

Not in the Legs. Dept.
Handwritten in Civil Records
1/11

he wanted however anywhere
of their functions whatsoever.
Having regard to the limited
material which the country
is able to furnish for guiding
and advising the Maharaja
in the exercise of their prerogative,
on the constitutional model of
the Judicial Committee of the British
Privy Council I am inclined
to think that the full delegation of
supreme power
may be made to the Chief Court
which, it may be assumed, will
always consist of a ~~bare~~ plurality
of Judges and in which notably
three will always join in
administering justice. As His
Highness Judges they will be
the ultimate Judges of Appeal,
and in the absence of an institution
corresponding with the House of
Lords or of the Privy Council of
the United Kingdom we may be
satisfied with the Ch Court. In
this view I do not consider it expedient
to provide another body of responsible

address be entertain appeals
against the Judges of the High
Court and decide them.
The establishment of such an
Institution is beset with seve-
-rable difficulties not the
least of which is the necessity
which it involves of finding
temporary & hired intelligence
and experience outside the
Province and the possibility
unless always very watchfully
guarded of a tendency (as may grow with time)
making it a purely local
and stereotyped institution.
~~The Court will~~, In such a
contingency the result will
be quite undesirable —
The prestige and the dignity
of the Chief Court will be im
paired and the benefits in
tended or expected to be derive
in many & rare cases will be
early commensurate with
~~decidedly~~ the disadvantage alone pointed
out. Unless [illegible] to
6.11.95

MEMO OF PAPERS CIRCULATED TO COUNCILLORS.

SUBJECT.

File of Papers relating to the appeal to His Highness the Maha Raja by the Mysore Municipality against the judgment of the Chief Court in Second Appeal No 20 of [illegible] with the records in O.S. No 616 of 1891 on the file of the Munsiff of Mysore, the Municipality No 159 and the old and new maps of the Mysore City.

By order,

30 July 1895

W Nanda[illegible]
General Secretary.

To—

Rajadharma Pravina
T. R. A. Thumboo Chetty, Esq., C.I.E.

P. N. Krishna Murti, Esq.

Khan Bahadur Abdul Rahman, Esq.

The Dewan.

The complete relating to the party
[illegible] is noted as
regd in the 2nd Comm. Branch.
Sup.
4/8/95
The 2nd Comm.

The Subject has been perused. The Inam Registry may be returned
2nd
Sent to 4th Sec.y
18/3
Ordered
Their return
Secretary
18-3-96

Memorial of Mr. C. Raja Rao, Advocate, appealing against the decision of the Chief Court in 2d Appeal No. 20 of 1893.

No. of paper	Subject.
1	Letter No. 1138 dated 17th April 1894 from the Dy Commr. Mysore, submitting for orders copies of Judgments in the Civil Suit filed by Mr. Narasimhachar, against the Mysore Municipality.
2	Letter No. 1391 dated 15th June 1894 from the Dy Commr. forwarding another memo drawn up by Mr. Coopoosami Modliar, Vice President, and sending copy of a notice by one Venkatlakshamma claiming compensation for her land taken up similarly.
3	No. 2346/248.92 dated 8th August 1894, reply to the Deputy Commr. Mysore, stating that if Venkatlakshamma filed the suit, a copy of the plaint may be sent up to Government.
4	No. 2283/283 dated 8th August 1894 to the Superintendent Inam Settlements, requesting to send registers of enquiry and settlement of the Inams granted to Krishna Villura Agra.

5 No. 16 dated 9th August 1894, from the Superintendent Inam Settlement, stating that no Inam has been registered in the name of Krishna Vilasada Linganna Agrahar-

6 No. 3057/R 387 dated 21st August 1894, to the Deputy Commissioner, Mysore District requesting information regarding the grant of Inams to the Krishna Vilasada Linganna Agrahar-

7 No. 215 dated 28th August 1894 from the Deputy Comm.r, Mysore, furnishing copies of Sanads regarding the grant of Inams to the said Agrahara-

8 No. 9/D.H.O. dated 5th September 1894, to the Deputy Commissioner Mysore, requesting, in reply, to furnish certain original papers

9 No. 7/D.H.O. dated 5th September 1894, to the Secretary, D.O.W. calling for the maps of the Mysore City, prepared before the recent Topographical Survey-

10 No. 8/D.H.O. of the same date to the Deputy Commissioner Mysore on the same subject-

11 No. 252 dated 10th September 1894, from the Deputy Comm.r, Mysore, forwarding 15 pieces of the Mysore City map-

12 Letter No. 4854 dated 19th September 1894 from the Chief Engineer of Mysore, informing that the old maps of the Mysore City are not in his office -

13 No. 5778 dated 22d October 1894 from the Chief Engineer of Mysore, forwarding an old map of the City of Mysore -

14 No. 11/D.S.D. dated 7th September 1894, to the Superintendent, Inam Settlements, requesting to forward entire records of Inam enquiry of certain Villages in the Yedatore and Attikuppa Taluks -

15 No. 37 dated 14th September 1894 from the Superintendent Inam Settlements, forwarding the entire records connected with the settlement of the Inams in Medur and other Villages.

16 No. 2345/L.F. 248. 92 dated 9th August 1894 to the Registrar of the Chief Court of Mysore calling for certain records connected with the Civil Second Appeal No. 20 of 1893, on the file of the Chief Court -

17 No. 1708/66 dated 14th September 1894 from the Registrar of the Chief Court of Mysore, forwarding the said records.

18 Camp No. 98 dated 24th September 1894,

to the Registrar of the Chief Court of Mysore, returning records in O.S. No. 66 of 1877 on the file of the Judicial Assistant Commissioner of Mysore, and requesting to send the records connected with a suit instituted by one Ramaiya against the Mysore Municipality.

19 Docket No. 2101/86 dated 4th October 1894, from the Registrar of the Chief Court of Mysore, forwarding the said records.

Original Records.

20 In O.S. No. 616 of 1891 on the file of the Munsiff of Mysore, Narasimhachar ~~V/~~ Mysore Municipality, with a sketch separately put up.

21 In ~~Second~~ First appeal No. 182 of 1892 on the file of the District Judge of Mysore, Mysore Municipality ~~V/~~ Narasimhachar.

22 In Second Appeal No. 20 of 1893 on the file of the Chief Court, Narasimhachar ~~V/~~ Mysore Municipality.

23 In Small Cause Suit No. 69 of 1876 on the file of the Judicial Assistant Commr. of

24 Original records in O. S. No. 66 of 1877 on the file of the Munsiff of Mysore, Ramma ~~of~~ GOVERNMENT OF MYSORE Mysore Municipality.

25 Original records in O. S. No. 346 of 1875 on the file of the Munsiff of Mysore Ramma ~~of~~ Narrainshetty.

26 Draft of a memo drawn up by the Dewan.

27 Fair copy of the same.

28 Memorial presented by Advocate Mr. Raja Rao to His Highness the Maharaja through Colonel J. A. Campbell, Private Secretary on behalf of the President City Municipality, Mysore appealing against the decision of the Chief Court in Second Appeal No. 20 of 1893.

(General Serial No. 30.)

1894. 1879

From

The Deputy Commissioner
Mysore District
C. 3392

To

The Chief Secretary to the Dewan
of Mysore.

Dated 17th April 1894

Despatched

Received

Enclosures No. 5

General No.

No. 1138

Submitting for orders, copies & judgments of Courts in the case filed by M. V. Narasimha Shari against the Mysore Municipality

The file no 242-92-1 on subject letter C.S. & the Dewan Bahadur—
14-4-94 Translation &c
2-5
21-4-94

LR
71-93-1

Submitted
N
The highest Court of the land has passed a judgment in favour of the plaintiff and it happens to be in accordance with a decision of H.H. when he was [illegible] Mysore. The Judgment requests that the Rules may be moved to establish the Chief Court decision. But no ground seems to exist for such an extraordinary procedure.
25-4-94

order.
H.H. the Maharaja as disposed to interfere with the decision of the Chief Court
29/4/94

Read the papers for the approval of H.H. the Maharaja
Vide Memo. Sd/- H.H.
8/5/94

UBB
10/5/94

Rec. 10/5
Keep this until further orders
26/5
Dewan

Submitted N-94
30-4

138.
5.

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,

Dated Mysore 17th April 1894.

From

A. Rangasami Iyengar Esq. B.A.B.L.
Deputy Commissioner,
Mysore District.

To

The Chief Secretary to the Dewan of Mysore,

SIR,

With reference to the enclosed copy of Resolution of the City Municipal Board dated 31st March last, suggesting that a representation be made to Government on the decision of the Chief Court in the Civil second appeal preferred by V. Narsimachar against the Mysore City Municipality, I have the honor to submit for consideration and for such orders as the Government may deem proper copies of Judgments

of

of the three Courts.

A memo prepared by me for the information of the Board is also submitted.

I have the honor to be.
Sir.
Your most Obdt Servant.
K Srinivasa Ayanga
Deputy Commissioner
Mysore District

Court No.
Ulu.

Proceedings of the ordinary meeting of the Municipal Commissioners for the City of Mysore held at the Town Hall on Saturday the 31st March 1894.

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x x x

V. Read – Notice from Mr. Advocate Narasimha Chary on behalf of Venkatalatchamma residing in Krishna Vilasa Agraharam stating that should the strip of land between the front of her house and public drain wrongfully taken possession of by the Municipality in June 1891, be not given back and damages paid, he would file a Civil Suit within 60 days from 13th March 1894.

Resolved that as the owners of other houses in the street are expected to come forward putting forth similar claims and as compensation to be paid will amount to a large sum, and as the payment of compensation for such vacant strips of land will form a bad precedent and impede the improvement of public roads, a representation

be made to Government by the President. Copies of judgments of Civil Courts in the case of Narasimha Chary ~~v.~~ Mysore City Municipality be also sent to Government and their opinion solicited in the matter.

x x x

Extract.

K Nanjunda Aijangar
Dy Commissioner
Mysore District.

List of Enclosures sent with letter No. 1126 dated 17th April 1894 from the Deputy Commissioner, Mysore District.

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(1) Copy of Judgment in C.S. No 616 of 1892 on the file of the Munsiff Mysore

(2) Copy of Judgment in appeal No 182 of 1892 on the file of the District Judge, Mysore

(3) Copy of Judgment in Second appeal No. 20 of 1893 on the file of the Chief Court of Mysore

(4) Memorandum drawn up by the President Municipal Board Mysore and D/Com Mysore.

(5) Extract from the Proceedings of the Mysore Municipal Board dated 31st March 1894

In the Court of the Munsiff of Mpore

Present C. B. Seshagiri Row Munsiff

Civil Suit no 616 of 1892

Plaintiff

V. Narasimhachar

Vs

Defendant

Mpore Municipality represented by Mr. A Rangasamy Ayenga

Judgment

Suit to recover possession of a Vacant Site and for damages viz 25 Rupees.

The plaint is as follows:-

(1) The Site described in the Plaint Schedule belongs to Plaintiff Since the late maharaja built and made a gift of the agrahar, Plaintiff's ancestors and plaintiff were successively in possession of the Site.

(2) Defendant wrongfully took possession of it ab about 2½ months before the date of the Suit. Defendant has no right to it.

(3) Defendant dug out the concrete flooring of the said Site and thereby caused damage to Plaintiff. The Site has become

useless.

(4) The plaintiff informed defendant that the Site belonged to him and that he had no right to it.

(5) On the 26th June 1891 Plaintiff issued a notice to Defendant under section 424 of the Civil Procedure Code but Defendant denied Plaintiffs right to it

(6) Cause of action arose about 2½ months ago.

Prays for Judgment for possession of the Site described in the Plaint Schedule and for the removal of the drain from the said Site and for Rupees 25/- as damages for the wrongful dispossession and for the destruction of the flooring and Court Costs

The Defendant's advocate filed the following defence.

The ground referred to in the Plaint was taken by the Municipality as it was part of Street and belonged to the public and therefore the property of the Municipality

The Suit Came on for Settlement of issues on the 24th September last. Plaintiff was represented by Mr. T. V. Ramasamy Thar

and Defendant by Mr Venkatasubbiah for Mr Subbarayer.

The Issues Settled were:—

(1) whether the ground was Plaintiff's property or Defendants?

(2) Whether Plaintiff is entitled to recover the land?

(3) whether the Plaintiff is entitled to any and what damages.

The suit came on for final hearing on the 19 march, 25th april, 12th May and 14th Instant. The Plaintiff was represented as before and Defendant by Mr. Subbarayer at first and latterly by Mr. C Raja Row

The former 4 amended II witnesses and the latter 7.

The Exhibits feled were:—

A. notice issued to Plaintiff by Defendant dated 5th August 1890.

B. Reply to Plaintiffs notice dated 15 August 1891

C. Copy of the Stone Sasana feyed in the Ranganadeswara's temple.

D. Notice issued to Plaintiff dated 8th April 1890

I Sale deed executed by Ranjeeda Pandeth in favor of Mr Canbeeravathar dated 27th april 1891.

II Do executed by Lakshmie ramappa in favor of Sudarasana Iyengar dated 24th april 1893

III Notice issued to Defendant dated 26th June 1891

IV Reply given by Plaintiff dated 12th August 1890.

V Sale deed produced by Mr. Krishna Iyengar dated 5th october 1883

VI Application presented by Lenja Shetty to the Vice President.

VII Do of Narain Shetty

VIII The Vice President's letter to the President

The facts of the case are briefly these:—

In the year 1822 (A D) one of the maharanees of the late Maharaja of Mysore built 21 houses from (East to west) known as Krishna Vilas agrahar in the city of Mysore and made a gift of them to 21 Brahmins. Plaintiff is the descendant of one of the donees—

When the agrahar was built there was

no municipality and there were no regular roads or drains - There was an open maida to the South between the agrahar and another agrahar known as Lakshmi Vilas agrahar The boundaries of the agrahar in question were however marked out by pencil Vamana Mudre stones.

About 25 or 30 years ago the Jagan Mohan Palace was built on the said maidan to the South of the agrahar a regular road was for the first time made between the said Palace and the agrahar with V. Shaped drains. The road seems to be within the boundaries of the agrahar -

Between the road (or the V Shaped drain) and the agrahar houses, however, there was left a Strip of land about 14 feet (N. to S) in front of each house and the owners of the adjacent houses used the vacant site for various purposes.

In 1890 Mr. K. Mahamed Ali Sahib the then Vice President of the Mysore Municipality ordered the V Shaped drains (to the north) to be set back by 14 feet and

thereby widened the road by way of an improve-
-ment. The effect of this was to deprive the owners
of the houses the use of the vacant site in front
of their house. To give effect to the orders of
the Vice President the municipal servants
dug out the concrete flooring in front of
Plaintiff's house and set back the drain
close to Plaintiffs' building. Plaintiff
protested against the acts of the
municipality and claimed compensation
but he was told that the site was the
property of the municipality and that he
was not, therefore, entitled to any
compensation (See Exhibit B and No III).
Hence this suit for restoration of the site
and for damages.

The defence is that the site is the
property of the municipality and the
principal question for decision therefore
is as to the ownership of the site.

According to the Stone Prasana fixed
in Prasanna Ranganadawara temple, a
copy of which is filed and marked C, the
road appears to have been made within
the limits of the agrahar. The building

7

the Jagan Mohan Palace which is to the south of the road the limits of the agrahar (according to Vamana Mudre stones) appears to have been studiously avoided so far as the road making was concerned the Vrittidars could raise no objection because it was for their common benefit. In making the road a reasonable extent of open ground appears to have been reserved for each house. Upon this open ground some built up to the old drain, one of them sunk a well and erected pials around the wall - some others planted coconut trees and have enjoyed the produce for the past 30 or 40 years. Plaintiff converted a portion of the site into a concrete flooring and used the site for various domestic purposes. Indeed defendant admits that Plaintiff has all along used the site in dispute and it is in evidence that the concrete flooring existed for upwards of 12 years. It is clear therefore that Plaintiff has acquired a good and valid title to the

Dhs 1
2Dhs "

described ——————— like either upon the strength of the Sasana or by reason of adverse possession for more than 12 years

I find it difficult to understand upon what grounds defendant resists such a strong case for Plaintiff. The evidence adduced by defendant proves nothing material to the case. From Exhibit no VIII it will be observed that the Vice President consulted Mr. C. Raja Row, the Municipal Commissioner of the Mahala, before ordering the drain to be set back and that that Gentleman assured him that the strip of land which was lying between the drain and the houses was municipal ground. Mr. Raja Row was examined as witness for defendant and yet it is strange that not a single question was put to him as to how he had arrived at the conclusion that the vacant site was municipal property. I did not know when he was examined that he had been consulted in the matter.

As against Mr. Raja Row's opinion (expressed as a municipal Commissioner

of 7 years ——— (Pending) That is the opinion expressed by Mr. K. Sheshadri Iyer when a Judge in Mysore in the case of Ramana ~~If~~ Municipality (Os. no 66 of 1877 on the file of this Court.)

The learned Judge said:—

"It is true that all waste lands belongs to the Government and within municipal limits to the Municipality. But every bit of land not actually used is not Government waste land. Very often private persons hold it as their property. If the owner of a building site does not choose to build up to the drain and prefers to leave open a strip of ground between his house and the drain he does not thereby confer upon the municipality any right to it. The Municipality has, it is true authority on Sanitary and Aesthetic grounds to interdict any building, but this is not based upon its ownership of the site of the proposed building and the Concession to build cannot be purchased. In

this town itself (suppose) there are numerous instances in which house owners own and use in a thousand ways the open ground in front of their houses. Municipal action with reference to such grounds has been most varied the result no doubt of a confusion between facts of sanitation and facts of ownership. The latter kind of facts have been inferred from the former."

In another part of the same judgment the learned judge says "there is no evidence to show that there is anything in the past history of the street in question which makes inapplicable to the present case the ordinary presumption of the title of house owners to the open ground between their houses and the street drain." There is no evidence of that kind in this case either.

In another part of his judgment he says "If a road has been made through Government waste land then the owners of property on either side of it could

their property and the road. In such a case the proper presumption would be that from motives of economy only a portion of the available ground was metalled and fitted up with drains". In this case however it is clear from the Pasana C and the ramana mudre stones" that it was not upon Government waste land that the road was made but upon the afahar land.

Assuming that the land was a Government waste land Plaintiffs has, in my opinion, acquired a prescript title to the disputed lots. In the above case it was argued on behalf of the municipality as in this case that Plaintiff had encroached upon municipal property. The learned judge met that argument in the following words.

"Possession originating even on trespass, can when it is of the prescribed duration, give a valid title, and when it is not of this duration it is very often good evidence of title".

In that case for quoting to Lord

from the said judgment is this. A copy of the judgment was put into my hands, and I read it and found it a very instructive and sound judgment. As my own views were entirely in accord with those of the learned Judge I thought I could not do better than quote his own words.

I said that the evidence adduced by defendant proved nothing material to the case and I think I am bound to show (briefly) how it is so.

The 1st witness examined is Mr. Canberamalhar. He owns a house in a different agrahar viz Ramavelas a agrahar. He produced the sale deed of his house (no I) and swore that his house extended upto the municipal drain. His evidence is thus by no means favorable to defendants Case.

The 2d witness is Mr. Raja Row. He says that he has a faint recollection of Plaintiff having asked the ~~Plaintiff~~ President of the municipality, about 5 or 6 years ago for leave to build on

on the disputed site [illegible]
the building in front of Mr A Narasimiyan's
house as a precedent and of the President
declining to grant leave. The fact that
Plaintiff asked for leave to build does
not disprove his title to the site. nor does
it establish the defendants' title to it. I
think it was and is still the practice to
obtain a license from the Municipality
before a new building can be erected.
It follows therefore that the application
for leave to build did not mean that
Plaintiff had no right to the site.

The 3d witness is Mr. Krishna Iyengar
(Ex bia assistant Commissioner) He has
lately brought a house in the agrahar.
He never occupied it except for the last
2 months, having been employed elsewhere
on public duty. He says he does not know
anything about the ownership of the vacant
sites in front of houses in the said agrahar.
As regards his own house he says:- "I think
the site between the old and the new
drains has not been included in my
Sale deed". He admits however that he

never ——— measured his house to ascertain whether the vacant site in front of his house was or was not included in his sale deed, and so his impression that it is not included coupled with his answer that he does not know whom the vacant site belongs to is of no practical value.

The 4th witness is Mr. A. Amirthapandi The evidence of this gentleman is rather vague. He says "the vacant sites between the houses and municipal drains in front are mostly circar property. The word "mostly" gives rise to doubt which sites are circar property and which not As regards the sites in dispute he does not know anything i.e. he is unable to say whom it belongs to. He owns 2 houses in a different agrahar. He purchased them lately but he never occupied either of them. There is no V shaped drain yet in this agrahar. As to the ownership of the site between the houses and the drain in his agrahar he says "I understand it to be Government property". He gives

no facts upon which he formed his opinion that the vacant site was Government or cirkar property. He admits however that the extent of each agrahar varies.

The 5th witness is Mr. (Advocate) Krishna Iyengar. He has purchased a portion of the backyards of a house in Lakshmi Vilas agrahar. He says that the vacant site between the site purchased by him and the drain is not included in his Sale deed. The drain he says was built recently constructed. Having bought a portion of the back yard of a house he cannot certainly have a right to any site beyond the back yard. The case of a front yard is very different. Moreover the site bought by the witness is in a different agrahar and there is nothing to shew that all the agraharas are of the same dimensions.

The 6th witness says that he does not know whom the vacant sites belong to.

The 7th and last witness is the Sanitary

Inspector of Impove - He speaks to two vacant sites between the houses and the drain on the Elwal road having been sold by the Municipality to the owners of the houses - It is not shown when those houses were built or when the road was made and so the evidence of the witness proves nothing which has any bearing on this case.

The Defendant's advocate contended that Plaintiff was not in possession of the site so as to give him a prescriptive title because the sweepers beggars, curdwomen and hawkers used to pass on the site. A weaker argument than this I cannot conceive - In the first place there is no evidence to show that sweepers ever passed on the site. In the next place assuming that they did so that did not affect Plaintiff's possession as pointed out in the judgment above quoted There seems to be a confusion between facts of Sanitation and facts of ownership

If the argument be sound nobody can be said to be in possession of any house because there is scarcely a house which is not visited more or less frequently by beggars soliciting alms from door to door, by cardwomen, by hawkers and by scavengers.

In the course of arguments defdts: advocate drew my attention to certain papages in Smiths leading cases. I have read more papages but have not been able to find any cases bearing upon the Case. Except perhaps the case of Steel ~~of~~ Prickett (Page 150 Vol: II 8" Edition) in which it is laid down that the waste land on each side of the ~~drain~~ road is presumed to belong to the adjoining owners and which therefore goes to support the judgment of Dr. Seshadri Iyer.

For these reasons I find on the 1st issue that the site in dispute belongs to Plaintiff and not to the Municipality

If the site is wanted for public

purposes, defendant can of course assume it in the usual way on payment of compensation. Until that is done Plaintiff is certainly entitled to the possession of the site. An attempt was made to show that it was never intended by the Municipality to divert the site to any purpose different from what it is now used for, and that all that had been done was to improve the appearance of the street to Plaintiff's own advantage (See Exhibit no VIII) - This is rather inconsistent with the defendant's plea viz that Plaintiff has no right to the site. The effect of widening the road is, as already observed, to deprive Plaintiff of the use of the site as heretofore, and so I am unable to say that there is no injury done to Plaintiff - I find therefore on the 2d issue that Plaintiff is entitled to recover possession of the site and to have the V. shaped drain removed to the place where it originally was -

Plaintiff having succeeded in

in C [redacted] establishing his title to the site, it follows that defendants' acts in taking possession of it was wrongful. The destruction of the concrete flooring belonging to Plaintiff is not denied. It is in evidence that the cost of the concrete was about Rupees b/- For both the tortious acts I would award Plaintiff a compensation of Rupees 10/-. This disposes of the 3rd issue

For the 1st time in the course of argument Defendant pleaded ~~limi~~ limitation relying on section 238 of the municipal Regulations. This he was not entitled to do at the close of the case, because the question raised was not one which could be decided without taking additional evidence. At the settlement of issues no objection was taken on the ground of limitation and there was therefore no issue framed. Upon the evidence on record however it is clear that the suit is in time. The wrongful acts complained of took

'20 place on the 26th June 1891 (see notice No III) This suit was filed on the 31st August 1891 or within 3 months after the accrual of the cause of action as required by section 238 of the Regulation. The facts Defendants' advocate do not dispute. His contention is that Defendants denied Plaintiffs' right on the 8th April 1890. as shown in Exhibit D and so the suit ought to have been filed within 3 months from the said date. The cause of action in this case is not the denial of Plaintiffs' right but dispossession of the site. The dispossession took place on the 26th June 1891 and this suit was filed within 3 months from the said date. I hold therefore that the suit is not barred by limitation.

The result is there will be a decree for Plaintiff for possession of the disputed site and for the removal of V shaped drain from the said site and for damages Rupees of- and full costs. I allow full costs because Plaintiff

21

could ~~[illegible]~~ now tell
before hand what damages the Court
would award in a case of this
kind.

/Signed/ C. B. Leshager Row
Memorial

20th June 1892.

True Copy

H. Mainwaring Miller
Mn for Dy Commissioners
Mzane Distt

In the Court of the District Judge. Mysore

Present:- C. Sreenivasa Iyengar Esq: District Judge.

Appellant (Defendant) Respondent (Plaintiff)

The Mysore Municipality represented by Mr. A. Ranga-Swami Iyengar, President } vs Advocate Mr. V. Narasimha

Appeal Suit No: 182 of 1892, against the decree of the Munsiff of Mysore in C.S. No: 616 of 1891.

Judgment

This suit was brought to recover possession of a vacant site and for damages Rs. 25.

2. The plaint is as follows:—

1. The site described in the plaint Schedule belongs to Plaintiff. Since the late Maha Raja built and

for Rs 25. as damages for the wrongful dis-
-possession and for the destruction of the
flooring and Costs.

3. The Defendants advocate stated the
following defence.-

The ground referred to in the Plaint was
taken by the Municipality as it was
part of the Street and belonged to the
public, and therefore the property of
the Municipality.

4. The following issues were settled.——

1. Whether the ground was Plaintiff's
property or Defendants ?.
2. Whether Plaintiff is entitled to
recover the land ?.
3. Whether Plaintiff is entitled to
any and what damages ?.

5.— The Munsiff passed a decree in favo
of Plaintiff for possession of the disputed
site and for the removal of the V
shaped drain from the said site
also for damages Rs.10 and full

Sl. No. 26]

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

Requisition for papers.

Section Rev 2k

A

B

Filed

Deposit No.

File No. 66 - 94

Serial No. all

To be put up with Diary No. 5238 of 195

Signature C. G. Vajramani

Branch Revenue

Section Darkhast

Date 27.10.50

WD 0380—GPB—1,000 books of 100 leaves each—8-10-12

full costs.

6.— Defendant appeals on the following grounds:——

(1) Plaintiff has not made out his title to the site in dispute.

(2) The title deed or Sasana gives no right to the Plaintiff to the site in front of his house.

(3). There is no evidence to show that the site is included in the Agrahara land, and

(4) Even if that be a fact the Plaintiff has no right of action.

(5) Plaintiff has not proved prescriptive title to the site as he has had no exclusive or adverse possession.

(6) The V shaped drain was not constructed more than 12 years ago and it cannot in any way support Plaintiff's claim.

(7). The evidence in the case clearly establishes that the site vests in the Municipality.

(8). The Plaintiff is not entitled to any

any damages as the construction of the present drain does not diminish the utility of the site to the Plaintiff and he has sustained no damages.

(9). Plaintiff's claim is barred by limi-
-tation.

7. This is a test Case and has therefore been conducted on both sides with more than ordinary care. Having given my best consideration to the Case, I am unable to concur with the Munsiff in the conclusion at which he has arrived.

8.- The Plaintiff is the owner of a house in the Agrahar called "Krishna Vilasada Lingamba Agrahar". This amount owes its existence to one of the wives of the late MahaRaja. The limits of the Agrahar are somewhat vaguely defined in Shadhanam marked C. According to this exhibit, the Agrahar is situate opposite to another Agrahar called the "Lakshmi-Vilas Agrahar". There must have existed

existed a large extent of vacant
between the houses in the two Ag. of
On a portion of it the Jaggan Mohan
Palace has since been built. Roads
have been made on both sides of the
Palace. A few houses have also been
built to the south of the Jaggan Mohan
and to the north of the road in front
of the houses of the Plaintiff and other
Agrahardars. Admittedly, the site of
the Jaggan Mohan and of the houses
adjoining its southern wall does not
belong to the Agrahar in question. There
is no satisfactory evidence to show
that the stones referred to in Exhibit C,
now remain in precisely the same
spot as that on which they were originally
fixed. Under these circumstances it
is not easy to ascertain whether the old
road in front of the houses of the Plaintiff
and others, and the small strip of

of land which was last year added on to the Road are within the limits of the Agraharam or not.

9. Assuming however that they are within such limits, the point to be determined is whether the donees of the houses in the Agrahar had any, and what interest therein. What was given away in gift to the Plaintiff and other Brahmins was not the Agrahar or subject in question, but the 21 houses built therein (Vide Exhibit C). It is for the plaintiff to show, that the house gifted to him included also the vacant site in front of it, and up to the line of the stones planted for fixing the Agraharam limits. This he has completely failed to do. The title deeds referred to in Exhibit C. have not been produced. The Plaintiff alleges that the title deeds which it was the

This is the point h

the intention of the donor to issue were not issued at all. There is thus no documentary proof of the alleged title of the plaintiff and his neighbours.

10. The oral evidence is vague and inconclusive. None of the original donees has been examined, the reason probably being that no such person is now alive. Nor is any other direct evidence forthcoming as to whether the houses gifted included also the vacant sites in front of them. The plaintiff's title is sought to be established by evidence of possession and enjoyment. It is true that the plaintiff and his neighbours used to sweep and keep clean the strip of land in front of their houses and use it for drying grains and as a means of access to and from their houses. It is true also that the defendant had a concrete flooring on a small

small portion of the site. It is likewise conceded that a few of the doners had planted a Cocoanut-tree each in the vacant-ground in front of their houses. These are not, however, deli necessarily indicative of ownership. The Plaintiff admits that some 20 or 25 years ago, the Municipality made a road on a portion of the vacant site. There is absolutely nothing on record to show that this was done with the Consent and permission of the owners of houses in this Agrahar. The presumption is, that the site was thus utilized by the Municipality because it was not private property. Of the large extent of land thus available a portion was turned into a road. The rest was presumably left alone on economical considerations. There is nothing to justify

justify a distinction being drawn between the site of the road and the rest of the vacant ground. If the former was public property, the presumption is that the latter was also such property. It is for the Plaintiff to displace this presumption by satisfactory evidence. This he has not succeeded in doing. There may have been some laxity of management on the part of the Municipality, but it is clear that the acts relied on by the Plaintiff and his neighbours did not amount to a possession hostile and adverse to the Municipality so as to create in their favour a title by prescription. There is nothing to show that the Municipality was ever prevented from gaining access to the vacant ground in suit, or that its title was repudiated more than 12 years before the date of the present dispute. It may be that one or

or two persons extended their houses up to the side drain, and thus asserted a title of their own to the waste land which formerly existed between those houses and the road. Such persons can of course contend that they have acquired an indefeasible title by adverse possession. But the case of the Plaintiff and of other persons who exercised no hostile acts of ownership over the ground in front of their tenements is wholly different. They made no open assertion of title. Their acts did not amount to a denial of the title of the Municipality or to a deprivation of use by that body. That being so I hold that the Plaintiff's contention as to the acquisition of a title by him by long adverse and exclusive possession cannot prevail.

11. It is thus evident that neither by grant nor by prescription the plaintiff has acquired a title to the vacant

vacant ground which is the subject matter of this litigation. I may observe that the opinion thus recorded by me is not in conflict with the able and instructive judgment from which the Munsiff has largely quoted but which he seems to have misapplied.

12. It is for the Plaintiff to make out the Case alleged by him. This he has failed to do. He has shown nothing more than that the suit site is possibly within the limits of the Agraharam and that he has been doing on it certain acts not necessarily inconsistent with the existence of a good title in the Municipality. I consequently hold that he is not entitled to succeed.

13. On reversal therefore of the Lower Court decision I direct that this suit

Suit be dismissed with Costs throughout

Signed

30th November 1892. C. Srinivasa Iyengar

District Judge

30-11-92

True Copy

K Srinivasaiyengar

Deputy Commissioner

WDN Mysore District

In The Chief Court of Mysore at Bangalore.

Monday, the 22nd day of January 1894

Present

Raja Dharma Pravina S. R. A. Shamba Chetty Esquire, Chief Judge.

A. Ramachandra Iyer Esquire, Judge.

Second Appeal No. 20 of 1893

V. Narasimhachari. (by Mr. S. Narayana Row) } Appellant (Plaintiff).

The Mysore Municipality, represented by Mr. A. Ranga sami Iyengar, President. (by Mr. C. Raja Row) } Respondent (Defendant).

Second appeal against the decree of the District Judge of Mysore in appeal No. 182 of 1892, reversing the decree of the Munsiff of Mysore in original suit No. 616 of 1891.

This second appeal coming on for hearing on Wednesday, the 29th day of November 1893, The Court delivered the following

following judgment:— 46

The Chief Judge —— Plaintiff sued to recover possession of a vacant ground in front of his house, valued at Rs 105/- and also claimed damages Rs 25/- on the ground that the concrete flooring of the said site was illegally removed or caused to be removed by the municipality under the orders of the Defendant, the President.

The defence was that the site in question formed part of a street and belonged to the municipality and that Plaintiff had no title to the site nor had he acquired any right by prescription or exclusive or adverse possession for 12 years or upwards.

The Court of 1st Instance (Munsiff of Mysore) found that the site in dispute belongs to Plaintiff and not to the municipality and that if the latter wanted it for the purpose of widening the road it ought to have been acquired in the usual course on payment of compensation. The Munsiff therefore

Therefore directed that the "V" shaped ∴ drain erected on the site should be removed and the site made over to the Plaintiff and a sum of Rs 10/- paid to him as damages for the removal of the concrete &c. - On appeal by Defendant, the District Judge reversed the Munsiff's decree and dismiss-ed the Plaintiff's suit, observing that Plaintiff had failed to prove his title to the site. Plaintiff has now preferred this second appeal on the grounds set forth in his appeal memo.

On a careful perusal of the Pro-ceedings and after hearing the able arguments of the Advocates on both sides, we have arrived at the conclusion that the Munsiff has correctly appreciated the evidence and that his findings in favor of Plaintiff both on the question of title and possession must be upheld.

Plaintiff's house is one of the Agraharam houses in Mysore Town belonging to Krishna Vilasada Linganna

Why is the Council a municipal Samnad? Who signed it? Was the plan accepted by both Sides?

Linyamba Agrahar referred to in the municipal samnad Exhibit C and it is clear from the plan prepared by the Munsiff on the 12th September 1893 that before the Jagan Mohan Palace and the other houses to the South of Krishna Vilas Agrahar street were built some 30 years ago there was an extensive open ground in front of the Krishna Vilas Agrahar on the Southern side between this Agrahar and the Lakshmi vilas Agrahar which is referred to as the Southern boundary of Krishna vilas Agrahar in the Samnad, Exhibit C. When Jagan Mohan Palace was built, it became necessary, of course, to keep the palace out of the then recognized limits of Krishna Vilas Agrahar, ~~street~~ and from the fact that the Jagan Mohan palace and other houses on this side of Krishna vilas Agrahar street are actually within the line of the boundary stones marked in plan (a), (b) and (c), it may be fairly inferred that all the site lying to the north of these three stones

including the street belonged to Krishna Vilas Agrahar and formed part of the original grant. When the Krishna Vilas Agrahar street was formed, some 25 or 30 years ago, a strip of land measuring 14 feet north to south was left between the road which extended up to the old "V" shaped drain and the Agrahar houses; and the owners or occupants of the houses admittedly used the said site in front of their houses up to the line of the "V" shaped drain. The site in dispute is situate to the north of the old "V" shaped drain up to the year 1890. There was apparently no interference by the municipality with the enjoyment of the site on the other side of the old drain by the owners of the respective houses. At any rate, it is proved that Plaintiff had a concrete flooring on the suit site and used it for various purposes. On the 8th April 1890, Plaintiff was required (vide notice marked D) to remove the concrete flooring, which he declined to do. On the 26th June 1891,

Suit so-land may be included within the limits of an agrahar without any claim to an individual agraharadar householder -

Perhaps so, as they were agrahar purposes

1891 Exhibit III the Municipality took possession of the site and removing the flooring, set back the "V" shaped drain close to the house of Plaintiff. There is nothing to show that the site of 14 feet to the north of the old "V" shaped drain was given over to the Municipality when the street was formed. The whole site including the site of the street belonged to the Agraharam and if the Government or the Municipality formed the street road, it is evident that only so much ground as was required for road purposes was given over by the agraharamdars. The onus of proving when or how the Municipality acquired a right to the site, which was on the other side of the street and beyond the line of the old "V" shaped drain rested on the Municipality. This they failed to prove. On the contrary, the oral evidence offered in this case by Plaintiff proves clearly that Plff has exclusive and adverse possession and enjoyment of the suit site for more than 12 years prior

No such gift is proved or can be inferred

Thus words took it. Rather than for Municipality was not a Corporate when road was made —

Vide the judges observation in the suit formed date

Not proved the adverse

prior to the 26th June 1891 when he was actually dispossessed by the Municipal-ity.

Plaintiff, examined as his 1st witness, says that he has been using and enjoy-ing the site since 1860. There was con-crete flooring to the extent of 3 X 45 ft. which has been used for various purposes.

Plaintiff's 2nd witness Narasimhia who has been living in the Agrahar for 40 years, speaks to the Plff's enjoyment of the site in front of his house and likewise to the other house-owners having similarly enjoyed the sites lying opposite their respective houses.

Plff's 3rd, 4th, and 5th witnesses speak to the same fact.

Plff's 6th and 10th witnesses depose to the concrete flooring having been in exis-ence for the past 13 or 14 years.

Plff's 7th, 8th, and 9th witnesses sup-ported the evidence of Plff to the effect that the ground to the north of the old "V" shaped drain belongs to the owners of the Agrahara houses and was used as

as such.

Plff's 11th witness produced a sale deed which was executed to him so far back as 1883 in regard to one of the Agra-haar houses. This conveyance includes, it is said, the site in front of the vendor's house up to the old "V" shaped drain. This, however, is not conclusive evidence of the Plff's title to the suit site as some sale deeds produced by Defendant's 1st, 3rd and 5th witnesses for houses purchased in the same Agrahar do not include the site to the north of the old drain.

This clearly shows that no Agrahaar House owner claimed beyond his house.

Defendant's 2nd witness Raja Row speaks to an application made by Plff some 5 or 6 years ago for leave to build on the suit site having been refused by the municipality. The mere refusal of the municipality to grant the required permission to build does not prove that the applicant had no title to the site to build on which permission was sought. Defts' 4th witness Annia Pandit, one of the municipal Commissioners, made certain admissions which are more

The grounds of refusal should have been ascertained from the original

more favorable to Plff than to the Defts, o
Municipality. He admitted that the old e
road in Krishna vilas agrahara was i
just where the new road was made, that
the vacant site in front of Rangappa's
house (which is close to Plff's house) had
been enclosed by a wooden railing which
existed for 30 years, and that the temple
to the west of Plff's house extended upto
the old drain. If Plff's neighbours enjoyed
the sites in front of their houses upto
the old drain as their own even subsequent
to the formation of the agrahar street
there is no reason to disbelieve Plff an
his witnesses as to his enjoyment of the
suit site as his own property.

Defts 6th witness does not profess
to know to whom the vacant site belongs
Defts 7th witness, the municipal Sani
-tary Inspector, deposes to his having sol
2 vacant sites between the agrahar
houses and the municipal drain. The
may be sites for which there were no
owners or claimants. The mere fact
that the Municipality sold without

An permission
ot in question
y right of
ownership —

+ The temple
property was
an encroachment
as evidenced
seen. It was set
back. Because
it was a temple
first hand
some Compensation

Were the
witnesses
sworn.
I think
not.

without any opposition unoccupied
unclaimed sites does not establish their
right to interfere with a site which, in
this case, has been clearly proved to have
been in the exclusive and adverse possess
-ion of Plff since 1860, or for more than
30 years. The suit site is clearly shewn
to have formed part of the agrahara
granted under Exhibit C. The Distt
Judge remarks that there is no satis-
-factory evidence to shew that the
boundary stones referred to in C now
remain in precisely the same spot.
In the absence of any reliable evidence
to prove that the stones originally fixed
were displaced or meddled with, there is
no reason to presume anything ad-
-verse to Plff. Equally unfounded is
the assumption of the Distt Judge that
the Agrahar street and the vacant
site up to the old drain are not with
-in the limits of the agraharam grant
by Exhibit C. Such assumption is
opposed to the admissions made by
the Defendant's 4th witness.

How did Exh. C. Grant- it? to whom? who signed it?

The site

site of the agrahar road set apart for public purposes was apparently quite distinct from the site left vacant on the other side of the drain. The acts of ownership exercised by Plff on that site estopped the municipality from setting up their right to that site. The munsiff was, therefore, right in finding that the suit site belonged to Plaintiff. The municipality acted illegally in removing the concrete flooring and taking possession of the site and putting back the drain close to Plff's house. Plff did not object to give up the site for municipal purposes. He simply claimed payment of compensation before the site was resumed (vide his letter marked No. 3, of 26th June 1891). The site is valued in plaint at Rs 1057. The proceedings do not show that an objection was taken to this valuation. If this small sum had been paid at the outset, all this litigation would have been avoided. Even in plaint

The

The prayer is for Plff being put in
possession of the site or for being grant
-ed such other relief as to the Court
may seem fit and proper. The site
having been taken up for the improve
-ment of the road and for setting back
the drain on sanitary grounds, the ends
of justice would be met by awarding
Plaintiff the value of the site, viz.,
Rs 105/-, instead of the land itself.
With regard to damages, the Munsiff
has fixed Rs 10/- as damages to Plaintiff
to cover the loss sustained by the removal of
the concrete flooring. It is not shewn that
Plaintiff sustained any other loss. In reversal
of the Distt Judge's decision and in modifica
-tion of the Munsiff's decree, we direct Defend
-ant, Municipality, to pay Plff Rs 115/- with
full costs of suit incurred in both the
Courts below and in this Court.

A. Ramachandra Iyer Espire:— The
dispute was regarding a strip of land between
the Plaintiff's house and the old "V" shaped
drain. The Plaintiff claimed it as his propert
and

and alleged that it was included in the grant which was made to one of his ancestors about 70 years ago. The Defdt denied it and claimed the road and the vacant ground adjoining it as the property of the Municipal-ity.

When is this grant?

Exhibit C shews that it was the intention of the donor to give a separate grant to each of the donees. It does not appear that effect was given to the intention. If separate grants were ~~given~~ made, a record of it might have been made in the Palace and a few of the grants might have been filed as Exhibits by either party. There being no grant in existence, we have to consider what use was made by the Plaintiff and other donees of the vacant land between the grain and their respective houses and to determine whether the evidence is sufficient to establish the title alleged in the plaint.

Why is it said that no effect was given —

But all palace records were destroyed, at least on late Maharaja's death

Rather "hundred".

The evidence of the Plaintiff's witness which was to a considerable extent corroborated by that of the Defdt's fourth witness was to the following effect:— On the site in

in dispute, the plaintiff used to erect tempot-
-ary platforms of brick and mud on Saukar
-anthi days and to preserve them for months
together. He obtained no license for this pur-
-pose, and it does not appear that the
Municipality ever took objection to his action
Another donee had the vacant space in
front of his house enclosed by a wooden
railing. The pagoda which is on the same
line with Plaintiff's house had the front
portion built up to the edge of the drain-
The Parkalaswami's Mutt, which also is in
the same road, has its verandah projecting
up to the drain. Others have planted cocoanut
trees in front of their houses and it was
said that some of these trees are about forty
years old. These different acts of ownership
exercised by the owners during the last forty
or fifty years without any hindrance from
the Government or the Municipality indi-
-cate a consciousness on the part of the
donees in general that the vacant ground
in front of their respective houses belonged
to them; and from these facts, I think that

By mere Squatters, no Gift Land is acquire- The pagoda property was an encroachment the Commissioner has seen

A Such Consciousness inferior Court Judges

that it may be inferred that the grants made to the donees embraced the vacant site.

I therefore agree in the decree which has been proposed by the learned Chief Judge.

A true copy

(Signed) S. R. Subbaraya Iyer

Registrar,

True Copy

Attorney at Law

for Deputy Commissioner

Mysore District

MM

Memorandum

Copy of judgment of the Chief Court in the second appeal filed by M. V. Narasimachari against the Municipality has been received after a great delay. I have carefully perused the judgment, and with all deference to the learned Judges that passed it, I beg to remark that the facts of the case have been misunderstood, that the evidence has not been correctly appreciated and that the decision if left unaltered, would seriously affect the rights of the Municipality to open sites on the margins of the public roads.

It will be observed that the Judges have concurred

in

in reversing the decision of the District Judge but entirely on different grounds. The Chief Judge has adopted wholesale the allegations put forward by the Plaintiff and his witnesses, while the 2d. Judge has based his decision on what he considers evidence of adverse possession of the Plaintiff as against the Municipality. The facts of the case and the nature of the claim of the Plaintiff and of the defence put forward by the Municipality and the statements of witnesses may be gathered from the copies of the Judgments of the three Courts and need not be recapitulated here. I would therefore make a few brief comments for the consideration of the members of the Board.

The Chief Judge says much

V

much stress upon the plan of the Agrahar furnished by the Munsiff. I had no opportunity of seeing it, and it is not clear whether the Advocates on both sides had any opportunity for admitting or impugning its correctness. Mr. Raja Rao had mentioned to me that the Judges had expressed an intention to see the place in dispute, if necessary. I personally asked the two Judges when they were in Mysore during the last Dassara, but they after first putting off finally thought it unnecessary to make a local inspection. Considering the important issues involved in the case, I regret very much that no local inspection was made.

The Vamana Mudrè:el-..

have not been proved to have remained where they were originally planted, nor were the stones forming the boundary of the Krishna Vilas Agrahar clearly identified. The wording of the Sanad produced in the case has been ignored by the Judges. A careful consideration of the terms of the Sanad would have shewn that even supposing that the boundary stones of the Agrahar had included a large open space in front of the houses of the Agrahar only, the houses and their backyards were given in gift to the Vrittidars and that none of them had any right to the open space in front, which must have been presumed under the circumstances to have been reserved for roads and other general purposes.

In the face of this testimony however, the Chief Judge has attached implicit credit to the interested testimony of Plaintiff's witnesses who are either owners of houses in the Agrahar or their friends.

The evidence of Mr. Raja Row has not been given proper weight by the Chief Judge. The so-called admissions of the Defendant's 4 witness are not admissions and do not support the Plaintiff's case. The Judges have apparently failed to consider that while Plaintiff is a private party anxious to safe guard his interests the defendant is a passing member of a corporation with no personal interest and that the witnesses cited for the defence are quite disinterested

and

and if anything unwilling to come forward as witnesses.

Both the Judges appear to have taken for granted that the old drain, marked the northern extremity of the road or public grounds. Tho' the Mysore Municipality was constituted many years ago the ideas of Municipal government and sanitation were most crude and a Regulation was introduced only recently. People were allowed to build their houses as they liked without obtaining previous permission, and encroachments were seldom noticed or objected to. It would be very hard if such encroachments are treated as evidence of rights in others. The drains have to be made straight and rather than fight for the removal of encroachments

spaces are left open and drains are taken straight thus cutting off ground belonging to Government from public roads. The reason for the drain in this case having been constructed at a distance from the pials of the houses was due to the temple having abutted on the road for some distance at the western extremity and to the influential Parakala mutt having constructed a veranda in front of the Mutt at the eastern end.

It is well known that there was no objection until lately for people to plant fruit or other trees on road sides or other Government land and even enjoy the produce, nor is it unusual for people to sink wells for public aswell as private use

use on public ground. Up to this day people are in the habit of putting up pavements of stone or brick in front of their houses along public streets without any idea of asserting thereby a right of proprietorship to the ground.

Pandals are put up for hot weather. Grains are exposed to dry. Fuel, timber Chunam or other materials are stacked, carts and Cattle kept on public grounds in front of houses. Such being the notorious usage of the Country it is not correct to build up a theory of adverse possession by prescription as against the Municipality on such user.

The Chief Judge admits that the site between the

old

old drain and the houses had not been included in the sale deed produced for the defence but has unfortunately under-rated its importance.

The Judges have also omitted to note that defence 18th witness, Mr. Krishnienger, who is an intelligent public official scarcely likely to forego his rights had some time before any dispute arose as to the title to the land in question, built his house leaving some space in front and raising the Compound wall in a line with the houses as they are and that notwithstanding the example of the encroachment of the Parakala Mutt.

I need not discuss the matter further. The decision in this case will be far

reaching in its consequences and inflict a serious loss upon the Municipality. It will give rise to endless litigation not only in this Agrahar but also in the neighbouring Lakshmivilas and Ramavilas Agrahars. It will seriously complicate the action of the Municipality in the Srirampett and other important roads where some encroachments have already occurred and more encroachments are being prevented with great difficulty by the Municipality. It is therefore highly necessary to have this decision set aside. There are good grounds for a review but it is doubtful whether the Judges will be disposed to re-consider a judgment which they recorded after so much —

deliberation. I would therefore suggest that it be submitted for the consideration of His Highness the Maharajah as the final authority in the land. —

A Ramaswamy
Reddiar

LR
1-93-2

To,

His Highness

Sri Chamarajendra Wadyar Bahadur
G. C. S. I.

Maharaja of Mysore

Rec'd this the Private Secy & H.H. today. 20.4.94 M

May it please your Highness,

The President of the Mysore Municipality most respectfully begs leave to appeal to your Highness as the highest Court of appeal against the decision of the Chief Court in Second appeal No 20 of 1893 - Narasimhachar Plaintiff Vs the Municipality of Mysore - Defendant.

The grounds of appeal:-

1. The dispute relates to a small strip of land in front of the Plaintiff's house in Krishna Vilas Agrahar. The Chief Court has erred in holding that the land did not form part of the road and that it was given in gift to the Plaintiff's ancestors along with the house.

2. The Chief Court erred in the

construction of the terms of the samad.

3 The Chief Court have not correctly understood the nature and force of the facts brought out in evidence and their conclusions are wrong and opposed to truth

4. The plan prepared by the Munsiff has been improperly admitted by the Judges of the Chief Court as correct without giving an opportunity to the parties to file objections, if necessary, and without satisfying themselves as to its correctness by a local inspection as promised.

5. The finding of the Chief Court as to the Plaintiffs' adverse possession is incorrect and is opposed to Law and usage.

6. This is only a test case brought by the Plaintiff with the support of other house owners in the same Agrahar, and involves an important question regarding the right of the Municipality to vacant space by the side of roads and within Municipal limits.

7. This decision will, if not set aside, launch the Municipality in endless litigation and make Municipal improvements impossible, entailing heavy pecuniary loss.

2 The Memorialist therefore most humbly prays that the records of the case may be sent for and considered and justice done.

Clerjee
Public Prosecutor
Ashtagram Divn

Mysore
15th April 1894

List of enclosures to the Memorial to His Highness the Maharaja of Mysore, in connection with Chief Court decision in second appeal No 20 of 1893 - Narasimha Char Vs The Mysore Municipality.

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1 Copy of Judgment in second appeal No 20 of 1893, on the file of the Chief Court of Mysore

2 — do — AS No 182 of 1892 on the file of the District Judge Mysore

3 — do — LS No. 616 of 1891 on the file of the Munsiff of Mysore.

4. Memorandum prepared by the President.

To,

Colonel J. A. Campbell

Private Secretary to His Highness

The Maharaja of Mysore

Sir,

I have the honor to submit herewith for being laid before His Highness, the memorial on behalf of the President of the Mysore Municipality: the grounds of appeal taken in the Memorial are necessarily brief, but a reference to the copies of Judgments and the Memorandum prepared by the President will, I hope, give a correct idea of the facts of the case. I beg respectfully that an opportunity may be given to me to represent in person how the Judgment of the Chief Court is incorrect and opposed to Law and justice.

I have the honor to be

Sir,

Your most obedient Servant

Mysore
15th April 1894.

Public Prosecutor

Ashtagram Dvn

(General Serial No. 30.)

1894.

From

The Deputy Commissioner
Mysore District

To

The Chief Secretary to the Dewan
of Mysore.

Dated 15th June 1894.

Despatched

Received

Enclosures No. two

General No.

No. 1391

Copy of the judgments of both the original as well as of the appellate courts recd. with (General No 16679) Mysore L.3392 Dy Commrs No 1138 dtd 17.4.92 was submitted to H.H. the Dewan on 30.4.94

2/6/94.

Submitted 23/6/94

As it is urged that a local inspection of the spot by their Honors the Judges was necessary, and was even promised but not performed, this might form a good ground for applying for a review of the judgment.

Submitting another memorandum in a suit filed in the Mysore Munsiff's Court against the Mysore City Municipality, and requesting early orders.

18604

L 4209

No. 1341
Enclosures No. Two

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,

Dated Mysore, 15th June 1894.

2

From A. Rangasami Iyengar Esquire B.A.B.L.
Deputy Commissioner,
Mysore District.

To

The Chief Secretary to the Dewan of Mysore.

SIR,

In continuation of my letter No 1138 dated 17th April 1894 submitting a memorandum &c in connection with the case Narasimhachari ~~vs~~ the Mysore City municipality, I have the honor to submit another memorandum drawn up by Mr Coopoosamy Mudaliar, Vice President of the municipality, together with a copy of the notice issued by Mr Narasimhacharry, Advocate, on behalf of one Venkatlakshama, claiming compensation for the strip of land between her house and the old drain in Krishna

Submitted to the Dewan in continuation of to whom the former letter has been forwarded for disposal.

2 — I think we must fight out each case in the Chief Court.
LCP
24/6/94

on the face of the notice the suit is based under section 238 of the municipal regulations & no action can lie against the municipality.

Rejected draft sent to Office for issue vide Book No. 10308 8/8/94.

Krishna vilas Agrahara.

The case is analagous to the one which was filed by Mr. Advocate Narasimhacharry and decided against the municipality by the Chief Court in second appeal. As similar cases are likely to spring up, I beg that Government may be pleased to pass orders on my reference at an early date.

I have the honor to be,
Sir,
your most obedient servant

Deputy Commissioner

Compd:
ules

Memorandum

Mr. Advocate Narasimhachar filed a suit No. 616 of 1892 in the Mysore Munsiff's Court against the Mysore City Municipal-ity for the recovery of a strip of land in front of his house which was taken up by the municipality for widen-ing the road, alleging that the land belongs to him and that he and his ancestors were in possession of the site.

2. The defence was that the site was not private property.

3. The Munsiff gave a decree for the Plaintiff but the District Judge reversed it in appeal.

The

the Chief Court, in second appeal, upheld the munsiff's decree and awarded compensation to the Plaintiff for the land &c.

4. Upon the evidence adduced for the Plaintiff, the Chief Court was of opinion that the site did belong to the Plaintiff; but Mr. Justice Ramachandra Iyer held that as the Plaintiff was using the land for more than 12 years it became his property.

5. The Board thought that there has been a miscarriage of justice and that the subject matter should be laid before Government.

6. This seems to me to be a fit case for review or for consideration of

of Government, because if the decision of the Chief Court be allowed to stand as it is, the improvements of important Roads and streets in towns like mysore would be serious-ly affected and retarded.

7. The facts of this case are these:— Along with the Parkalaswami Mutt, twenty houses to its west were built in a large open ground by His Highness the late Maharaja who gifted them away to Brah-mins 70 years and upwards ago, naming the Agrahar as "Krishna Vilasa agrahar" after the name of one of His Highness's Consorts.

8. The Plaintiff alleges that the strip of vacant land, about 14 feet in front of the built houses in this agrahar,

Rel. D

therefore the municipality ought not to have appropriated and added it on to the Road without payment of compensation to the owners.

9. It is admitted that there was an extensive open ground between Krishna vilas and Lakshmi vilas agrahars and there is some evidence to the effect that Vamana mudra stones were fixed to define the boundaries of these agrahars within which a large piece of the open ground was included. But the exact spot on which those boundary stones originally stood is not clear and the evidence in this respect is vague and unsatisfactory.

10. Supposing these boundary

boundary stones were really fixed including some portion of the open ground, shall it be said that the donees of the agrahar were given such open ground and could utilize all or any portion of the same for their own exclusive use and occupation unless it is clearly shewn that such vacant land formed part and parcel of the buildings?

11. The front wall of all the private houses in this agrahar is in a straight line even now and if the 14 feet or any portion of the open ground in front of them was really added on to the built houses, many of the house-owners, if not all, could not have remained without building out houses of

land to suit their conveniences.

12. It is true that the front buildings of the temple towards the west, and Parkala-swami mutt in the east, of the Agrahar, were to some extent brought forward from the front line of the private houses. But there can be no analogy between these two buildings of public worship and the whole number of the private houses in the line.

There were clear encroachments one was set back

13. It will be seen that the owners of all the private houses have scrupulously kept up their buildings within the front line. Some have left space for compounds, some have verandahs and some put up buildings abutting the line itself. Not a single owner set forward his building beyond the line as in the case

case of the abovementioned places of worship.

14. Long after the Agrahar was built, nearly all the extensive open ground was taken up for building Jagan Mohan Palace and its Compound and also for a line of private buildings just in front of the Plaintiff's house. If the vacant land was really included in the Agrahar houses, the owners would certainly have objected to the usurpation of the vacant land and to the construction of buildings thereon then and there.

15. The best evidence to prove whether the said vacant land really belongs to the house-owners or not is not wanting in this case. A stone Sasanam evidencing

the temple close by the Agrahar, a copy of the inscription of which was filed by the Plaintiff himself; and the Courts should not have ignored the clear terms of the said documentary evidence.

16. It is very clear from this Sasanam that only the built houses were gifted away. There is not a word in it even to presume that the gift included the 14 feet or any portion of vacant land in front of the houses. The Chief Court was then wrong in creating a right for the Plaintiff over all or any portion of the vacant lands in front of his house upon mere presumptions and interested oral evidence.

17. The Sasanam makes no allusion to separate deeds

deeds of gift having
issued to the several donees.
The reason for not producing
any of these sanands for the
inspection and consideration
of the Court is best known to
the Plaintiff. In such cases,
a most unfavorable pre-
-sumption ought to have been
drawn against the Plaintiff
title to the land.

18. The oral evidence of s
of the house owners to show
that the vacant land for
part of the houses themsel
should never have been al
-ed to outweigh the plain
of this ancient sasanan

19. As regards the long
-ion and enjoyment of the
strip of the land, the Plain
stated that he and other
of houses used to get the s
land cleared with cow dung
prior

spread pulses and grains to
dry, while some of them planted
cocoanut trees.

20. Worshipping the Sun
nce a year, sweeping, cow-
dunging, printing Rungolee,
and airing pulses daily, are
usually done in front of house-
s, where vacant strip of land is available in
front of houses
the sides or flanks of
ublic roads themselves are
sed for such purposes. This
s a notorious usage among
ative inhabitants. Why,
fter the drain was shifted
butting the houses in this very
-grahan, against which act
e Plaintiff took objection,
e people have continued to
e the road adjoining the
ouses for these purposes.

21. Unlike all other owners,
. Plaintiff had a bit of
ezete flooring to make
s yearly Pooja and the most

must he would be entitled to claim for losing it will be the pecuniary loss which he was put to, but he should not be allowed to take away the land itself.

22. The cocoanut trees were planted where the old drain was, simply because they are better grown by the side of drains. In many agra-hars people do plant such trees on public and private vacant lands even on the flanks of roads themselves adjoining their houses. When the land is not proved to be private property, the planter can only enjoy the fruits of his labor but he could not become the proprietor of the soil too.

23. It is well known that when people plant trees or topes in public lands, the most

1. most that can be given from
S at the time of the survey, settle-
-ment is the right to enjoy
the produce thereof, or they
can be permitted to become
the owners of the soil on pay-
-ment of assessment thereof
but the land will not be made
over to him unconditionally.

24. Walking over the
public vacant land in
front of the houses cannot
make them owners of the soil
itself, but they may have a
right of way over it if no
other way is possible.

25. Stress has been laid
on the fact that there is
a well in front of another
Mr. Advocate Narasimha-
-charry's house between the
front of his house and the
D drain to show that the
vacant land belongs to the
house. The wall was built
not

No

not for any private or exclusive use but as a fence to the well. Such wells do exist in some places on the roads. The owner of the well does not become the owner of the soil also al-though he may, as a matter of right, claim for its pre-servation or compensation for the loss of the well.

Who must the well?

26. Such use of vacant lands as the above by townspeople for the sake of their conveniences are not uncommon and the government and municipal-ity cannot be so strict as to prohibit them altogether from using public lands for such ordinary and temporary purpos-es. Courts should not take advantage of such passive acts on the part of public bodies in allowing facilities for the people to do so.

27. The ... evidence to reject the oral evidence adduced for the Plaintiff is that although dust bins were fixed by the Municipality at several points in this identical strip of land in the Agrahar, none of the houseowners questioned their right to do so. Surely they will not allow it to be done if the land exclusively belonged to them.

28. The Plaintiff swore that the municipal sweepers did not remove the rubbish collected in the Dustbins because they, being lower orders, could not approach the buildings occupied by Brahmins. If not the municipal sweepers, who did then remove the rubbish collected in these dust bins?

29. There are numerous

numerous Brahmin streets and Roads where no vacant land is available between built houses and public drai Do not municipal sweepers approach these houses to remo rubbish and clean drains clo by them? After shifting the stor drains abutting the houses in this very Agrahar about which this suit was filed, the munici -al sweepers do approach the houses and remove rubbish and clean drains abutting them

30. The Plaintiff did not pause before giving such an incredible evidence and this shows how far he and his neighbours were blind in speaking at random to make out that the vacan land formed part of their houses.

31 - There maybe an id that the municipality is

in the habit of taking lands for public improvements without paying reasonable compensation therefor. When a vacant land is satisfactorily proved to be private property, the municipality cannot reasonably take it away, even for public improvements, without paying a reasonable compensation to the owner thereof; but in the absence of strict or satisfactory proof to show the same to be private property, the Courts should not readily pass decrees against public corporations upon deeply interested, meagre, and unsatisfactory evidence and upon mere presumptions arising from the circumstances of the case.

32. When the contention is between private parties

ordinary rule of presumptions may be safely acted upon, because private parties can be held to be watching their own interests by timely observance of action in case of their rights being encroached upon or interfered with by others, the extent of their rights being very limited. But when the contention is between a private party and a public corporation as in the present case, courts are bound to require the private party to produce strict and very satisfactory proof to prove his own title for this simple reason, that a public body which is represented by an executive officer cannot have opportunities or facilities to notice any interferences with the public

public lands extending over the whole town by a private individual - Their subordinate officers cannot also be expected to be aware of any such unwarranted interferences unless something substantial is done by private individuals to take exclusive possession of public vacant lands or to alter them in such a way as to convert them into private property -

33- The reason for relaxing the ordinary rule in favor of public corporation is obvious - The executive officers and subordinates can have no such keen interest to watch insignificant interferences with public lands, nor will it be possible for them to notice or detect every such temporary

temporary [illegible]
the whole town.

34. Such temporary and ordinary users of public vacant lands, more especially by the adjoining house-owners cannot and should not be regarded as adverse possession and enjoyment to extinguish the right and title of the public body. Should the vacant land be enclosed or built upon or cultivated, then the occupant may perhaps acquire a good and valid title to the land but not otherwise.

35. After all, by the act of the municipality in widening the road, it gains absolutely nothing; but the Plaintiff and the owners of the houses in Krishnavilas lost nothing, nor were the

they put to any inconvenience or annoyance or expense whatever. The daily cleaning and printing Rangolee by the house-owners and the yearly worshipping of Siva in front of their houses have never been interdicted, nor have they been deprived of the enjoyment of the produce of the cocoanut trees or well in the road. On the other hand, by widening and improving this road at the cost of the municipality, the locality became very important and the value of house property there much enhanced.

36. The appellate judges of the Chief Court promised to inspect the locality for a better understanding of affairs but they failed to do so. At any rate they were very anxious to have a personal

personal inspection for a satisfactory decision and often adjourned the case apparently for that purpose but at last the case was decided without such personal inspection. The interests of the municipal-ity have certainly been prejudiced by such non-inspection which is a defe in law and procedure an which alone justifies a rev of the case.

(Signed) A. Coopoosamy

Copy

Deputy Commissioner

Mysore District

Notice under Section 424 C.P. Code

To

The President
Mysore Municipality
Mysore

I have been instructed by my client Venkatlakshamah residing in Krishna Vilasa agrahar Mysore, that the Site of land between her house and the old drain was taken wrongful possession of by the Municipality in June 1891 and that the Structure round the well Situated there was damaged, and I have been asked to take necessary Steps for the recovery of Said Site & damages - Take notice that if you do not Settle her claim with 60 days from this day, I shall file a Suit against the Municipality for restoration of the Site and damages.

I have &c
Your Most obedient Servant
/Sd/ V. Narasimhachar
Advocate

"Copy"

Dy Commissioner
Mysore District

Compared
[illegible]

Gen. Serial No. 30.]

189

4

From

The Chief Secretary to the
Dewan of Mysore.

To

LR 21-93-4 The Court of Wards

Dated 8th August 93

Despatched

Received

Enclosures No.

General No. 2283

No R 283

Asking for the register of enquiry & settlement relating to Krishna Vilas agrahar in the town of Mysore.

4

No 2283. 8/8.8.94. Ry
R 2813

The Supt of Mysore

Sir

I am directed to request the favor of your forwarding to me as early as possible the Register of Enquiries & Settlements relating to certain ~~Agrahs~~ Inams granted by H.H. the late Maharajah in the year or abt 1822 to an Agrahara in the City of Mysore Called "Kristna Vilasada Linganna Agrahar" or simply "Kristna Vilasa Agrahara", together with any original Exhibits which may be on record.

I. 8.8.94.

Ch Ry -
Send this to me
at once —

Mysore
Mr Stokes

8/8/94

To

~~The Chief Justice.~~

The Regr of the Ch. Cl.

R 350

2345 / L7.248-92 9/8/94

I have the honour to request that the Certified record of Civil & 2d appeal ~~case~~ No. 20 of November 1893, (together with the proceedings of the City Mayor, Municipality of the Chief & Asst. Cls) may be forwarded as early as possible for reference.

together with the record of O. 66 of 1877 on the file of the Supreme Court of Mysore

Ref:
File No 248 of 1892
Local Boards Branch

Secn V/9 9/9/94

From the Same 1708/66 of 14/9/94
L.670

LR
7/1936

GL 351

2346 & 9/8/94
L.7.248-92

To/

The Dy Com. Mysore Dt

Sir,

In reply to your No. 1591
& 15th June 1894, regarding the
notice given by Venkata Lakshamma
of her intention to file a Suit
agt the Mmds. I am directed
and asking for the Govt decision of the appeal
to inform you that the
Maharajah,
Appeal preferred on 17 April
1894 agt the decision of
the Chief Ct in Second appeal
No. 20 of 1893, Narasimhachar Vs—
the Mysore City Mmds. I am
directed to inform you that the appeal
under the Consideration of His
Highness the Maharajah. That case is not
binding for the purpose of Venkata Lakshamma's Claim.
The Govt are of opinion
that the
has no right whatever to
claim the claims and
Shd she file a Suit
agt the Mmds

in respect of this case!
I am to request you to
forward at once a Copy
of the Plaint with a
Draft of the Defence you
wd propose; for the exhibits
previous Sanction ~~Orders~~ of the Govt

Yours
[illegible]
C. Secy

by
8/8/94

Ref

File No. 248 of 1892.
Local Boards Branch
Secy to Govt
8.8.94

1894.

1723.

From

The Superintendent of Inam Settlements in Mysore.

R 421

LR 7/9 TB

To

The Chief Secretary to the Government of Mysore.

Dated 9th
Despatched 9th } August
Received.

Enclosure No.

No. 16

Informs that from the Inam Settlement Registers, it appears that no Inam in the City of Mysore has been Registered in the name of Krishna Vila Sada Lingambia Agraharam

Rev 9.8.94

Send this to Superintendent Madalore for submission direct to the Collector who has called for the information

C.S. 17.8.94.

Rec'd 18/8/94

Subd for orders.

17/8/94

Rec'd 17/8/94

Drafted 18/8

Rev'd. 20/8/94.

To Commr Mysore No 3057 / R 387 21/8/94

Houses were

The Agraharam was probably located elsewhere originally, but afterwards transferred to the Mysore City. The Agraharam Inam lands can it is believed be readily identified, and the Registers of their Settlement will probably give all the information Required.

I ask the Dy Comr to enquire upon these points and when it is received, write to the Inam Superintendent again asking for the Report

19.8.94.

Mr Draft Rs 18/8

(No. 16.)

Inam Supt.'s Office
Bangalore dy 9th August 1894.

To,

The Chief Secretary to the Government
of Mysore.

Sir,

In reply to your letter No. 228. R. 28
of yesterday's date, received by post today
I have the honor to inform you that from
the Inam Settlement Register, it appears
that no Inam in the City of Mysore,
has been registered in the name of
"Krishna Vilasada Lingámba Agraha
or simply "Krishna Vilasa Agrahara

I have the honor to be,
Sir,
Your most Obedt. Servant

Supt. of Inam Setts.

To

The Deputy Commissioner,
Mysore District.

No 3051 dated 21-8-94
R387 / 22

Sir,

I am directed to inquire whether the houses belonging to the "Krishna Vilasada Lingamba agrahara" were originally located there. Where and afterwards transferred to the Mysore City, and to request you to furnish all available information regarding the grant of Inam lands to the said agrahara. The occasion for this Enquiry will be apparent from the Correspondence Copy of which is enclosed.

2. A Very Early reply is requested

I have &c

Chief Secy

LR 71-93-8

From	To	No	Dt
Chf Secy	Inam Supdt	2283 R283	8 Aug 94
Inam Supdt	Chf Secy	16	9 Do

(General Serial No. 30.)

1894.

2767
31 AUG 94
R697

From

The Deputy Commissioner
Samudra Mysore District.

To

The Chief Secretary to the Dewan
of Mysore.

Dated

28th August 1894.

Despatched

Received

Enclosures No. Five.

General No.

No. 215.

Submitting as called for, certain information regarding the grant of Inamlands to the Krishna Vilas Agrahar, Mysore, together with the copies of the three Sthalasanams, &c.

Sub Dy Commissioner's further Notes.

The Enclosures do not throw any light on the question at issue.

Ltd 31 Augt 94

Ask the D.C. to obtain the original deeds referred to in the despatch of Assistant Commissioner and forward the same for inspection -- also to obtain from the other two Assistant Commissioners

5.9.94. hy.

Ask the Inam Supt. to forward for inspection the Entire Records of Inam Enquiry & Settlt. of the following Inam Villages belonging to the Agrahars specified

Srirangapatna Agrahara
1. Medur
1 Kanna Naikanahully
1 Settahully
1 Chittanahully
in the Attikuppa Taluk.

Melkote Agrahara.
1. Dinka
1 Babi
1 Honnasanahully
and their Dakshi villages
(in the Bookanakere Taluk)

Devanoor Agrahara.
1. Kundur
1 Mattkere
1 Kallahully
1 Hosur
1 Vaddarahully
and their Dakshi villages
(in the Yedatore Taluk)

hy.

Set also

from D.C. { The Turkish Samad issued
by H.H. the late Maharaja
to families of Mysore
granting Pagodas 3 & 3 and
to the Prasanna Ramaswamy
temple at Mysore.

from Asst Supt { Record of Inam Enquiries
& Settlement of the above Grant.

5/9/94

215

Deputy Commissioner's Office
Mysore
Dated 28th August 1894

From,

A. Rangaswami Iyengar Esquire
Deputy Commissioner

To,

The Chief Secretary to the Dewan
of Mysore

Sir,

I have the honor to acknowledge your No. 3057/R 387 dated 21/22 August 1894 regarding Krishna-rilas Agrahar, and beg to state that the Agrahar was first constructed on the bank of the Cauvery near the village of Chandagal, and the Vrittis granted in Inam together with the houses on 21st September 1821. The Agent of the Parakala Mutt as well as the grandson of the grantee of the first Vritti stated before me that they have heard that the Vrittidars represented to His late Highness the inconvenience living at Chandgal and obtained his sanction for building the houses in Mysore in what is now called Krishnavilas Agrahar a few years later. The latter further stated that the houses were constructed by the Palace agency for the Vrittidars who paid Rs 120/each for the cost of

building alone, the materials having been removed from the Chandagal Agrahar.

The villages given in Sarvamanyam are Modur, Kamanaikenhalli &c. in the Attikuppa Taluk. The number of the Inam title deed is 57629 and its date 18th December 1880.

Three Stone Sasanams have been put up in Prasanna Nanjundéswara temple by order of the late Maharaja when these Agraharams were built, and bear the original date of the Samads though admittedly put up a few years later.

I beg to enclose copies of the three stone Sasanams, extracts from a personal Samad containing details of the Grant, which do not differ from similar passages in the Vottu Samad, and a Statement taken from Gramani Alasingachar.

I have the honor to be
Sir
Your most obedt Servant
A Ramaswamy
Dy Commissioner

ಅಂಗಡಿಯವರು ಸಾಮಾನುಗಳನ್ನು ಕೊಡುವಾಗ ಅಳತೆಯಲ್ಲಿ ಮೋಸ ಮಾಡುವುದು ಸಾಮಾನ್ಯವಾಗಿ ಕಂಡುಬರುತ್ತದೆ. ಅಂಗಡಿಯವರು ಮೋಸ ಮಾಡಿದರೆ ಅದರಿಂದ ಗ್ರಾಹಕರಿಗೆ ಆಗುವ ನಷ್ಟವೆಷ್ಟು?

ಶ್ರೀಶ್ರೀ ಸಾದಿಕ ಗುರು ಸಾರ್ವಭೌಮ ಶ್ರೀ ಶ್ರೀ ಶ್ರೀ ಸದ್ಗುರು ಸಾಯಿನಾಥ ಮಹಾರಾಜ್ ಕೀ ಜೈ

ಶರಣರಲ್ಲಿ ಶರಣು ಶರಣಾರ್ಥಿ ಶರಣರು ಎಂಬುದು × × × × × ×

ಬರೀ ಕೇಳಿದ್ದು ಬೋಧನೆ ಮಾಡಿದ್ದು ಸಹ. × × × × × × ×

ಆದಿನ ಬೆಳಿಗ್ಗೆ ಬ್ಯಾಡರಹಳ್ಳಿಯಲ್ಲಿ ಬೋಧನೆ ಮಾಡಿದ್ದೆ ಹೃದಯ ಮುಟ್ಟಿತು ಅಂತ ಕೆಲವರು ಹೇಳಿದರು. ಅದಕ್ಕೆ ಕಾರಣ ಏನು ಅಂತ ನಾನು ಯೋಚನೆ ಮಾಡಿದೆ. ಆಗ ನನಗೆ ಅನ್ನಿಸಿದ್ದು ಏನೆಂದರೆ ಆ ಸಮಯದಲ್ಲಿ ನಾನು ಯಾವುದೇ ಪೂರ್ವ ತಯಾರಿ ಮಾಡಿಕೊಂಡಿರಲಿಲ್ಲ. ಆ ಸಮಯದಲ್ಲಿ ಏನು ಹೇಳಬೇಕು ಅಂತ ಅನ್ನಿಸಿತೋ ಅದನ್ನು ಹೇಳಿದೆ. ಅಷ್ಟೆ. ಆದರೆ ಅದಕ್ಕೆ ಮುಂಚೆ ಸಾಕಷ್ಟು ಸಲ ಬೋಧನೆ ಮಾಡಿದ್ದೆ. ಆಗ ಸಾಕಷ್ಟು ತಯಾರಿ ಮಾಡಿಕೊಂಡಿರುತ್ತಿದ್ದೆ. ಆಗ ಹೇಳಿದ್ದು ಹೃದಯಕ್ಕೆ ಮುಟ್ಟಿರಲಿಲ್ಲ ಅಂತ ಕಾಣುತ್ತೆ. ಆದರೆ ಆ ದಿನ ಹೃದಯಕ್ಕೆ

ಸನ್ನದ ಕೊಟ್ಟಿರುವ ಕೈ- ಪಿಸಿಪ್ರಚಾರ-ಸಿಂಗ್ ದರ್ಜಿಕರ

ಕಾರ್ಯಾಲಯ

ಸನ್ನದ 1894ನೆಯ ಮೇ ಅಕಸ್ಟೋಂ ಸಂಖ್ಯೆ 28 ರಲ್ಲಿ —

ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳು ಅಪರಾಧಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಾಗದಗಳನ್ನು

ತೆಗೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿರುವೆ —

ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳ ಕೈಯಲ್ಲಿರುವ ಕಾಗದಗಳನ್ನು

ಸಂಬಂಧಪಟ್ಟ ಕೈದಿಗಳಿಂದ ಪಡೆದುಕೊಳ್ಳಲು - ಅಂತೆಯೇ ಅವುಗಳನ್ನು

ಕಳಿಸಲಾಗಿರುವ ಸ್ಥಳಕ್ಕೆ ಬರಬಾರದೆಂದು. ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿರುವೆ. ಕೈ

ದಿಗಳು ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಳಿಸಿರುವ ಕಾಗದಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು

ಕೊಟ್ಟಿರುವೆ - ಆಯಾ ಕೈದಿಗಳಿಂದ ಅಧಿಕಾರವನ್ನು ಪಡೆದುಕೊಂಡು

ಹೋಗಲಿಕ್ಕಾಗಿ ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಳಿಸಿರುವ ಕಾಗದಗಳನ್ನು

ತೆಗೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿರುವೆ - ಆಯಾ ಕೈದಿಗಳಿಂದ ಅಧಿಕಾರವನ್ನು

ಪಡೆದುಕೊಂಡು ಹೋಗಲಿಕ್ಕಾಗಿ ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಳಿಸಿರುವ

ಕಾಗದಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿರುವೆ - ಆಯಾ ಕೈದಿಗಳಿಂದ

ಅಧಿಕಾರವನ್ನು ಪಡೆದುಕೊಂಡು ಹೋಗಲಿಕ್ಕಾಗಿ ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ

ಕಳಿಸಿರುವ ಕಾಗದಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿರುವೆ - ಆಯಾ

ಕೈದಿಗಳಿಂದ ಅಧಿಕಾರವನ್ನು ಪಡೆದುಕೊಂಡು ಹೋಗಲಿಕ್ಕಾಗಿ ಕೆಳಗೆ ಹೇಳಿರುವ

ಕೈದಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಳಿಸಿರುವ ಕಾಗದಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು ಅಧಿಕಾರವನ್ನು

ಕೊಟ್ಟಿರುವೆ - ಆಯಾ ಕೈದಿಗಳಿಂದ ಅಧಿಕಾರವನ್ನು ಪಡೆದುಕೊಂಡು ಹೋಗಲಿಕ್ಕಾಗಿ

ಕೆಳಗೆ ಹೇಳಿರುವ ಕೈದಿಗಳ ಸಂಸ್ಕಾರಕ್ಕಾಗಿ ಕಳಿಸಿರುವ ಕಾಗದಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು

ಅಧಿಕಾರವನ್ನು

ನಿಮ್ಮ ಪತ್ರಕ್ಕೆ ಉತ್ತರವಾಗಿ ನಮ್ಮ ಸಂಸ್ಥೆಯಲ್ಲಿ ಈ ಬಾರಿ ಸಾಲಿನಲ್ಲಿ ಪ್ರವೇಶ ಪಡೆಯಲು ಇಚ್ಛಿಸಿರುವ ವಿದ್ಯಾರ್ಥಿಗಳ ಪಟ್ಟಿಯನ್ನು ಕಳುಹಿಸಿಕೊಡಲಾಗಿದೆ.

ಧನ್ಯವಾದಗಳೊಂದಿಗೆ

ಇಂತಿ ನಿಮ್ಮ ವಿಶ್ವಾಸಿ

ಪ್ರಾಂಶುಪಾಲರು

20.8.94

[illegible] ... [illegible] ... [illegible] ... [

Annexure

"A true copy"

By. Mallikarjunaya

Kurnool Dist Office

28-8-94
Nandyal

No. 9/D.H.O. dated 5th & 14th Sept. 1894.

LB 91-93-10 8

To

The Dy Coll Nagpur

Sir

~~Adverting to my~~

Refs. to yr. letter No. 215 of 28th Augt/94.

I have the honor to request that you will be so good as to obtain & forward to this office as early as possible for reference the following Docts.:—

(1) The original of the Personal Sanad & Other (General) Sanad and of the other docts. rel. to Nd. Gramini Alamigucharni's deposits before you. (Krishna Vilas Agrahara).

(2) Similar docts. for the Lakshmi Vilas & Rama Vilas Agraharas

(3)

2). .. Regarding the three Agraharams ~~Kri~~ Lakshmi Vilas Krishna Vilas & Rama Vilas, and the particulars of their foundation ? am to refer you to the account given at pp. 306 & 307 of the Vamsa Ratnakara

It is necessary to have correct information regarding the exact date of ~~this~~ removal of the Horses to Mysore, ~~the~~ & whether the date of Vysakha S. 6th - ~~given in the~~ ~~11~~ of Parthiva given in the work above-named can be accepted as the correct date & and if so upon what grounds ~~is~~ are points that require full investigation.

3) It will seem that a Prasanna Ramjunder Vara temple exists at ~~this~~ original site of the Agraharas near Chandagal. ~~Does~~ If it was ~~so~~ ~~regd~~ the case, does the temple now exist? How is it managed? What Emoluments a Taste does it now enjoy? Does it enjoy the Vrithi mentioned in the Lakshmi Vilas Grant?

When was the Prasanna Ramjunder Vara temple built at Mysore? How was it endowed? What is the Taste given to it - All Sannads granting to these temples any Emoluments in land or money should be forwarded for inspection

4) There is very good reason to believe that the Stone Sasanams placed in the Mysore temple were composed long after ~~the date of the~~ 1821 - It

respondents merely published for the information
- porting the Charities in question,
but were not grants in any sense of
the term. There are no boundaries given
in them and the indications of the
local ~~position~~ position of the temples
& of Agrahar houses cannot be regarded
as boundaries. Is there any information
forthcoming as to the exact position
of various Mudrā stones & when & by
whom they were placed?

7. In the Civil Court Progs. it is stated
that applns of some persons to build
on the 14' strip in front of their houses
had been refused. The records connected
with those applns may be obtained &
forwarded for reference.

6) The No. of houses for Christian Vicars
Agrahar was 20 besides the Parekala
Mutt - A plan shd be prepared of the
~~Outer Street~~ ~~the locality~~ showing especially the limits of the Mutt &
Outer Street ~~the Agrahar temples~~ there houses.

7) It is probable that Subrayan Dass'
temple is outside these limits. The
grants in favor of this temple
& Connected houses shd be obtained
& forwarded for reference - Also
any grants which owners of houses

on the opposite side of the Street
may present itself. The Old Town
map rep[d] to in another requisition
of Todays will throw some light upon
the State of things Several years ago.

8/. There is reason to doubt the right
of the Mun[l]. to any land within Nyasa
City - All unoccupied land within the City
W[d] thus vest in the Govt. Any claims for
land in front of the houses in the
named or the other Agraharas shd be
duly reported for the orders of Govt —

Yr
5/9/94

Mun[l].

for C Sy